

Civil Union Review Commission Hearing

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1 RE: NEW JERSEY CIVIL UNION)
2 REVIEW COMMISSION)
3 _____)
4

Wednesday, May 21, 2008
Trenton, New Jersey

5
6 BEFORE: Civil Union Review Commission
7 COMMISSIONERS:

8 FRANK VESPA-PAPALEO, ESQ., CHAIR of CURC
9 STEVEN GOLDSTEIN, VICE CHAIR of CURC
10 STEPHEN HYLAND, ESQ., SECRETARY OF CURC
11 BARBARA G. ALLEN, ESQ.
12 REV. CHARLES BLUSTEIN-ORTMAN
13 JOE KOMOSINSKI
14 ERIN O'LEARY, ESQ.
15 MELISSA H. RAKSA
16 REV. KEVIN E. TAYLOR
17 ROBERT BRESENHAN, JR. (Via telephone)
18 ALSO PRESENT: ESTHER NEVAREZ,
CURC STAFF

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1 T R A N S C R I P T of the Civil
2 Union Review Commission, taken in the above-
3 entitled matter before Debra Rice, Professional
4 Court Reporter and Notary Public of the State of
5 New Jersey, taken at the offices of the New
6 Jersey Civil Union Review Commission, Division on
7 Civil Rights - 6th Floor, Walter Lucas Commission
8 Conference Room, 140 East Front Street, Trenton,
9 New Jersey, on Wednesday, May 21, 2008,
10 commencing at 1:30 p.m.
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1 MR. VESPA-PAPALEO: Good
2 afternoon, everyone. Let's start off with the
3 May 21st meeting of the Civil Union Review
4 Commission. Esther?
5 MS. NEVAREZ: In compliance with
6 Chapter 231 of the Public Laws of 1975, notice of
7 this meeting was given to the Secretary of State,
8 the Press of Atlantic City, Camden Courier Post,
9 the Jersey Journal, the Trenton Times, Asbury
10 Park Press, The Record and the Star Ledger.
11 Call to order.
12 Barbara Allen?
13 MS. ALLEN: Present.
14 MS. NEVAREZ: Charles Ortman?
15 MR. ORTMAN: Here.
16 MS. NEVAREZ: Robert Bresenhan?
17 MR. BRESENHAN: Here.
18 MS. NEVAREZ: Barbara Casbar
19 Si perstein?
20 (No response was given.)
21 MS. NEVAREZ: Steven Goldstein?
22 MR. GOLDSTEIN: Here.
23 MS. NEVAREZ: Joe Komosinski?
24 MR. KOMOSINSKI: Here.
25 MS. NEVAREZ: Stephen Hyland?

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1 MR. HYLAND: Here.
2 MS. NEVAREZ: Erin O'Leary?
3 MS. O'LEARY: Here.
4 MS. NEVAREZ: Melissa Raksa?
5 MS. RAKSA: Here.
6 MS. NEVAREZ: Linda Schwimmer?
7 MS. SCHWIMMER: Present.
8 MS. NEVAREZ: Kevin Taylor?
9 MR. TAYLOR: Present.
10 MS. NEVAREZ: Frank Vespa-Papaleo?
11 MR. VESPA-PAPALEO: Here.
12 MS. NEVAREZ: Thank you.
13 MR. VESPA-PAPALEO: We will now
14 stand for the flag salute, please.

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15 (The flag salute was conducted.)

16 MR. VESPA-PAPALEO: Thank you.

17 There is one additional thing I need to do that
18 is not written in the agenda. I will do this
19 now, the approval of the minutes from the April
20 16th meeting. A copy is in your file.

21 MR. ORTMAN: Move to approve.

22 MR. TAYLOR: Second.

23 MR. VESPA-PAPALEO: All in favor
24 of the approval of the minutes indicate by saying
25 "Aye."

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1 (Each committee member responded
2 "Aye.")

3 MR. VESPA-PAPALEO: Any opposed?

4 No one opposed; so that motion
5 carries. Thank you. So the minutes are approved
6 from the April meeting. We will go on to the
7 Chair's report.

8 Three things I want to bring up:

9 First, in your packet is a blue-covered
10 confidential directory. Since we have a few new
11 members and changes of address and so on, I ask
12 that each of you please review this for accuracy,
13 and if there are any revisions, to please give
14 them to me or to Esther. Thank you.

15 Second, in your packets as well,
16 I've left a series of copies of articles that
17 will be for the June hearing, but because the
18 June hearing is going to focus almost exclusively
19 on fiscal financial impact issues, we started to
20 collect some of the information just so you have
21 it, because some of it is a little dry. There
22 are some articles there from the Boston Business
23 Journal, a report from the New York City
24 Comptroller's office, a report from UCLA Law
25 School, Williams Institute. So those are in

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1 there just for your own preparation.

2 To the extent any of you might
3 have articles that you want to share that you
4 would like us to get to everybody for the next
5 hearing, just e-mail them to me or Esther, and we
6 will make sure that we get them out to everybody.

7 Finally, in your packet is the
8 report of civil union complaints filed with the
9 Division on Civil Rights. As reported
10 previously, we have had eight verified complaints
11 filed with the Division on Civil Rights. Three
12 have been closed. They have been resolved. The
13 other five remain under investigation. And that
14 report is in your file. There are no changes

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15 from the last meeting's report with regard to
16 that.

17 MS. ALLEN: Frank, were they
18 closed because people withdrew their complaints,
19 or what is the reason for closing them?

20 MR. VESPA-PAPALEO: All three
21 complaints were closed for satisfactory
22 resolution. There were two cases filed by the
23 same complainant named Robert Klide (ph.) or
24 Kleed (ph.); I'm not sure. One of them he
25 withdrew because it was the incorrect respondent.

0007 1 The other one he kept at the agency, and that was
2 successfully resolved through mediation.

3 The third one, which was against
4 the YMCA from West Morris, that was resolved
5 successfully through mediation as well. That was
6 a case involving a YMCA. This lesbian couple in
7 a civil union were moving to another location,
8 were registering at a new YMCA and were allegedly
9 told they could not register and get the family
10 membership. That was addressed, and they have
11 resolved that. They have conducted training of
12 their staff, and that was just that attention to
13 training. That was actually not a policy to
14 limit access to the YMCA.

15 MS. ALLEN: What was the nature of
16 the other two?

17 MR. VESPA-PAPALEO: The other two
18 cases dealt with insurance benefits for an
19 employee, and I can't remember if he was a
20 current or former employee, but the company has
21 added his partner on to receive insurance
22 coverage; so that is how that was resolved.

23 MS. NEVAREZ: Excuse me, Babs is
24 trying to get on and cannot. She has the correct
25 number in the current access code, but she hasn't

0008 1 come on. So I'm a little worried. I don't know
2 how to address that. I don't want to exclude her
3 from the meeting.

4 MR. VESPA-PAPALEO: Why don't you
5 talk to Wally or Nancy, because they deal with
6 the conference service.

7 The remaining complaints, three of
8 them involve insurance coverage issues, not
9 insurance coverage in the legal sense, but
10 whether or not civil union partners are entitled
11 to be listed as beneficiaries of insurance. And
12 the other two are the Ocean Grove cases which
13 you're aware of. And that's it at this point.

14 MR. HYLAND: Are you still a

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15 defendant?

16 MR. VESPA-PAPALEO: No, I'm not a
17 defendant in the Ocean Grove case. The case was
18 dismissed down in Trenton.

19 And that's the end of my report.
20 Steven?

21 MR. GOLDSTEIN: Three things: I
22 don't know if you all know that the February
23 report this Commission released was cited in the
24 California Supreme Court case, pretty
25 significantly, actually. Among the many reasons

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1 the Court gave was the practical effect of civil
2 unions in California, which are called "domestic
3 partnerships" there. So they cited this report.
4 I'm going to e-mail everybody, pretty
5 extensively. In that report, they also cited the
6 descent of then Chief Justice Porace (ph.). So
7 there is a New Jersey touch there.

8 Second, just to call everything to
9 the practical effect of California, we've just
10 gotten so many calls from couples who have asked
11 for advice. Should they go to California, New
12 Jersey couples, and then come back here? And
13 we're very honest in what we respond. I'm very
14 happy to share it here. We say two things.
15 Fine, the advice we give is, you know there's a
16 referendum process in California that does not
17 exist in New Jersey, and we don't advise anybody
18 to get married or not, that's their personal
19 decision, but if you had to do it,
20 hypothetically, Canada does not have that
21 process; it's settled.

22 Then they ask, well, is it
23 recognized as a marriage here. The staff
24 responds, then Chief Justice Rabner had written a
25 memo saying that a marriage here would be

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1 recognized at the level of a civil union. That
2 was like a couple weeks or a few weeks after the
3 State legislature passed the civil unions. There
4 was a memo, I'm sure all of you know, that now
5 Chief Justice Rabner had written, and so it is
6 certainly going to be an issue.

7 I'm just fascinated that in the
8 LGBT community consciousness, there was much more
9 of a desire to go to California than there was to
10 go to Canada or Massachusetts, but people know
11 Massachusetts has a law there that restricts --

12 MR. HYLAND: Massachusetts has an
13 evasion statute where if you cannot marry in your
14 own state, non-residents can't marry there.

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15 MR. GOLDSTEIN: I'm just putting
16 in the notion that New Jersey is recognizing
17 out-of-jurisdiction same-sex marriages as civil
18 unions versus marriages. It might be something
19 we might want to look at. I think it will be a
20 big issue here with California.

21 MR. HYLAND: I will say that it's
22 going to be an issue that they are going to look
23 at. We filed suit seeking a divorce on behalf of
24 a Canadian couple here in New Jersey, and we are
25 seeking to have it treated as a divorce rather

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1 than a dissolution of a civil union. The
2 Attorney General's Office has been placed on
3 notice that we are challenging the opinion of the
4 former Attorney General Rabner in regard to the
5 recognition at least of out-of-state marriages.

6 Those of you who have read the
7 statute know the original criteria for entering
8 into a civil union included that both partners
9 had to be of the same sex and therefore unable to
10 enter into a marriage. That is recognized in New
11 Jersey. All of the language in that particular
12 line was struck except for "be of the same sex."
13 And so one of the things we are testing is that
14 the legislature may have set a policy at that
15 point of recognition of same-sex marriages. We
16 will know sooner or later.

17 MR. GOLDSTEIN: And the practical
18 effect of the California decision on civil union
19 complaints, we've gotten the most we've gotten in
20 the last month, about three-quarters in the last
21 month, since the California decision. Our phone
22 is ringing off the hook. So we've gotten 848
23 complaints. Most of the 100-some-odd complaints
24 have come since the California decision last
25 Thursday. It's not that these 100 complaints are

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1 people who have experienced discrimination in the
2 last 30 days, even in the last week. It's just
3 that the awareness level is unbelievable. There
4 is a direct correlation between the number of
5 complaints that come in and news coverage, as I
6 said last month, and if people see an
7 organization's name in the paper, something
8 clicks, and they say, "Oh, now we can complain."
9 And we ask, "Well, when did you face this
10 discrimination," and they say, "Three, four, five
11 months ago; I just didn't know where to go."

12 With the news coverage, that's
13 just been, of course, off the charts. They will
14 see an advocacy group, and all of a sudden months

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15 later they will complain. And that's what
16 happened since California. There's just a huge
17 correlation between publicity and people knowing
18 where to go in filing complaints. So it's
19 astounding, and we actually can't handle it. We
20 ask people, for the record, well, file a
21 complaint. They say, "Well, can't you do
22 something about it?" I mean, we're just
23 overwhelmed. We actually have to hire staff now.
24 We're going to have to hire a full-time staff
25 member to answer these complaints.

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1 MR. VESPA-PAPALEO: Well, our
2 State keeps losing staff; so there will be a lot
3 of resumes floating around unfortunately.

4 Before we go on to the rest of the
5 Commissioners, if you have a report, I just want
6 you to know that we have several invited people
7 that will be testifying on behalf of some State
8 agencies. We're going to start off in a few
9 minutes with Ronald Marino from Labor & Work
10 Force Development, then our fellow Commissioner
11 Joe Komosinski from Health, then his colleague
12 from Health, John Calabria, and then finally
13 Public Advocate Ronald Chen. Then we will take a
14 break, and we will have some additional visitors
15 as well from non-governmental organizations.

16 Just so you know, I have to leave
17 at 3. The meeting may continue on, but I have to
18 attend to another emergent situation, and Steven,
19 of course, will be covering.

20 So, Mr. Hyland, anything to
21 report?

22 MR. HYLAND: Well, in addition to
23 the filing of this divorce, which I think will
24 help answer the question as to whether or not a
25 California marriage or a Massachusetts or a

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1 Canadian marriage would be recognized as such in
2 New Jersey, HRC, the Human Rights Campaign,
3 published a report on medical and health
4 facilities throughout the country. They got
5 responses from 88 different hospitals as to their
6 treatment of same-sex couples, children of
7 same-sex couples, et cetera, in a medical
8 environment, and it also addresses some of the
9 transgender issues.

10 I've looked at that study. It's
11 fairly short, one page, and I think it would be
12 an ideal study to send out to hospitals and other
13 medical facilities throughout the State of New
14 Jersey to give us an idea of whether or not

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15 they're in fact complying with the civil union
16 bill in terms of their treatment of same-sex
17 families, whether or not are they're complying
18 -- even though that's not really our mandate here
19 -- whether they're complying with the addition of
20 transgender or gender issues to -- what is it,
21 gender --

22 MR. VESPA-PAPALEO: Gender
23 identity --

24 MR. HYLAND: -- to LAD and some
25 related issues. It will help us identify where

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1 maybe there might be some problems in terms of
2 recognition of civil unions in health
3 environments.

4 I've talked to the Garden State
5 Equality Chair briefly, and we may have that done
6 through Garden State Equality.

7 MS. O'LEARY: Can I ask you a
8 question about the divorce?

9 MR. HYLAND: Yes.

10 MS. O'LEARY: The divorce, is
11 there an opposition to it filed by the person who
12 is the defendant in the divorce?

13 MR. HYLAND: No; there is no
14 opposition from the defendant.

15 MS. O'LEARY: I was just curious;
16 okay.

17 MS. ALLEN: You're just seeking a
18 divorce of a same-sex couple as opposed to a
19 dissolution of a civil union?

20 MR. HYLAND: That's correct; and
21 it's a threshold issue that needs to be
22 determined as to whether it should be handled as
23 a divorce or whether it should be handled as a
24 dissolution.

25 MR. VESPA-PAPALEO: In which
0016 county?

1 MR. HYLAND: Mercer.

2 MR. VESPA-PAPALEO: Any other
3 reports from members of the Commission? Joe?

4 MR. KOMOSINSKI: Just for a total
5 for civil unions, a cumulative total, there are
6 2,702 civil unions that have been registered.
7 1,707 are female-female couples. 925 are
8 male-male couples. There have been 59
9 reaffirmations of civil unions and a total of
10 4,962 domestic partnerships. Of those, 34
11 domestic partnerships were registered after the
12 implementation of civil union, which would be
13 individuals who are 62 years of age or older.
14

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15 MR. VESPA-PAPALEO: That will
16 actually be one of the topics for today's
17 testimony. The issue of, you may recall, the
18 seventh charge of this Commission is to study
19 whether or not to recommend maintaining the
20 Domestic Partnership Act for those opposite-sex
21 couples who are 62 or older or whether to
22 eliminate that from State law.

23 MS. ALLEN: But doesn't the
24 domestic partnership also allow opposite-sex
25 couples -- you said same-sex --

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1 MR. VESPA-PAPALEO: That's what I
2 meant; I'm sorry. I meant our charge is to
3 recommend whether or not to keep the domestic
4 partnership law for opposite-sex couples over 62
5 or whether to recommend it's elimination
6 entirely.

7 Any questions for Joe?

8 MR. HYLAND: Yes. I believe it
9 was last week or so that I had a conversation
10 with Commissioner Komosinski in his role as
11 registrar regarding the statutory form that is
12 required when there is an artificial insemination
13 of a parent, of a woman, in a married couple or
14 now in a civil union. The form is a statutory
15 form that is required by the Parentage Act. It
16 was interesting that we discovered, along with
17 Patrick D'Almeida (ph.), a former assistant
18 attorney general, that in all of the years since
19 the Parentage Act was passed in 1977, nobody had
20 actually ever implemented the form and the method
21 that the statute says that the form is supposed
22 to be handled and filed by doctors. We
23 discovered this only because when I asked the
24 doctor if he had this form, he said we never did
25 such a form and never had to.

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1 A form was drafted by Patrick
2 D'Almeida, and that form was addressing only
3 domestic partnership. I think that it has to be
4 modified so that it applies to -- it should be
5 actually civil union couples and married couples,
6 and I'm not certain whether it actually now would
7 apply to domestic partner couples. At the time
8 that we looked at this, it was just prior to the
9 civil union bill being passed or even proposed.
10 It appeared that it was going to be a requirement
11 based upon the Lewis decision, and I guess, Joe,
12 you might want to see if the AG's office has some
13 kind of a reading as to whether that should
14 include domestic partners or simply be applied to

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15 only married couples or civil union couples. But
16 as it is right now, the form makes no mention of
17 either married couples or civil unions.

18 MR. KOMOSINSKI: That is in
19 process to be referred to the AG's office for
20 review.

21 MR. HYLAND: Okay.

22 MR. VESPA-PAPALEO: If there are
23 no other comments from members of the Commission,
24 we will move on to our first visitor, please.
25 Come on up here, Mr. Marino. Welcome; we're a

0019 friendly bunch, just so it's a little easier for
1 the court reporter if you're up here.

2 MR. MARINO: I have a written
3 statement, if that will make your job easier
4 (indicating).

5 MR. VESPA-PAPALEO: We can get
6 this from you after.

7 MR. MARINO: I'll give it to you.

8 MR. VESPA-PAPALEO: Okay. Please
9 introduce yourself.

10 MR. MARINO: Good afternoon,
11 Mr. Chairman and distinguished members of the New
12 Jersey Civil Union Review Commission. My name is
13 Ronald Marino. I'm the Director of Unemployment
14 Insurance for the Department of Labor Work Force
15 & Development. Commissioner Soklov, who was
16 unable to attend this meeting, he does send his
17 greetings to the Board.

18 In my testimony below, I provided
19 background information on the civil union
20 legislation, the effectiveness of the
21 implementation of the legislation in LWD and also
22 the financial impact that it has on the entire
23 Department and also for Unemployment insurance.

24 As everyone knows, on December 21,

0020 2006, Governor Corzine signed into law the civil
1 union legislation which permits same-sex couples
2 to enter into legally sanctioned civil unions and
3 affords to same-sex couples of either gender the
4 same legal privileges and benefits as is
5 presently afforded to married couples. The law
6 took effect on February 21, 2007. The Department
7 and its constituent divisions, including the
8 Division of Unemployment Insurance, are to
9 provide same-sex couples who have been legally
10 joined in a civil union, as evidenced by a civil
11 union license, all of the same benefits,
12 protections and responsibilities under the law,
13 whether they derive that from the statutes,
14

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administrative regulations, court rule, public policy, common law or any other source of civil law, as are granted to spouses in a marriage.

Everywhere within the laws and regulations enforced by the Department where the term "spouse" is used, the term is synonymous with one who is a party to a legally sanctioned civil union. Also, parties to a dissolved civil union would have the same status for the purpose of laws enforced by the Department as would divorced spouses of a dissolved marriage.

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Whenever a new law is enacted, the Department takes steps to identify the impact of that law on both internal and field office operations, and we take appropriate steps to work on those various activities. Across the Department, our forms and documents were updated to reflect this change in the law. What I thought I would do is just bring one of the pamphlets that we have, and I have a paper clip to identify where we're showing changes with regard to using the language concerning "spouse/civil union partner," which I'll give to you (indicating).

We prepare instructions for the staff, and we update our forms, pamphlets, Web sites and other publications to comply with the requirements of the law. Again, this includes a modification of our rules and regulations. As a matter of fact, we have a modification to our regulations, which expire the end of this year, in place that we anticipate presenting to the legislature sometime this year identifying all of the areas whereby the spouse is now added on to the civil union partner. These actions are part of our administrative procedures, and they're

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part of regular staffing, a part of regular printing, and it's our normal way we do things in the Department of Labor & Work Force Development.

Getting down to the bottom line, as with the Unemployment Insurance Program, all program areas such as Temporary Disability Insurance and Worker's Compensation Insurance have seen negligible impacts due to civil unions.

I wanted to address a little bit about the Unemployment Insurance and just maybe give you an idea of what that impact looks like. The civil union law does impact the payment of Unemployment Insurance benefits and dependency benefits. The New Jersey Unemployment

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15 Compensation Program allows the unemployed
16 individuals receive dependency benefits to
17 increase the weekly benefit rate if the rate is
18 less than the maximum amount which is possible
19 for the year. In 2008, that amount is \$560 a
20 week.

21 The individual may be entitled to
22 receive an extra seven percent of the weekly
23 benefit amount for his or her first dependent and
24 an extra four percent for each of the next two
25 dependents. The maximum dependency that we allow

0023 1 that an individual can collect is an extra 15
2 percent for three dependents.

3 An unemployed civil union partner
4 now can be claimed as a dependent on Unemployment
5 Insurance benefit claims. The following rules
6 apply, and these apply to every individual who is
7 applying for a dependency benefit: Number one,
8 if the spouse or civil union partner is employed
9 during the week that the individual established
10 the claim, the individual cannot receive
11 dependency benefits. A dependent is defined as
12 an unemployed spouse, civil union partner or an
13 unemployed, unmarried child, including stepchild
14 or legally adopted child under the age of 19, or
15 22, if the child is attending school full-time.

16 If the individual and the spouse
17 civil union partner are both unemployed, only one
18 may claim dependency benefits. The individual
19 will be asked to provide the Social Security
20 number or numbers of the spouse civil union
21 partner and other claimed dependents. The
22 individual will be asked to provide proof of
23 dependency.

24 The Division will accept as
25 verification of dependency status a copy of the

0024 1 most recent federal or State income tax. If that
2 is unavailable or is insufficient to provide
3 current dependency status, the Division may
4 consider a civil union license from New Jersey or
5 marriage certificate from another state. Other
6 documentation considered as proof are birth,
7 baptismal, certified divorce dissolution, child
8 support, annulment, adoption orders, or any other
9 legal documents. They're basically part of our
10 regulations that we impose.

11 My observations have been that
12 there has been a smooth transition to include a
13 civil union partner in a dependency application
14 process. We've got existing programs to process

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15 dependency applications to pay the higher weekly
16 benefit amount; so we didn't need to really do
17 any type of modification. Work flow and claims
18 handling processes remain the same.

19 With regard to the financial
20 impact, although the Division of Unemployment
21 Insurance does not gather separate specific
22 information and statistics on spouses versus
23 civil union partners concerning the dependency
24 benefits, we are able to provide some estimates
25 on the cost of processing or paying dependency

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1 benefits for civil union partners based on a
2 comparison of the system and our manual records.

3 From March 1, 2007 through
4 February 29, 2008, we had a total of 313,550
5 initial claims for Unemployment Insurance
6 benefits for first-time payments. So an
7 individual collecting Unemployment for the first
8 time went in and filed, and there's 313,000 and
9 change who did that in that period. The average
10 weekly benefit payment was approximately \$347.
11 The average duration of benefits for weeks claims
12 is 18.3 weeks. So, if somebody were to file an
13 Unemployment claim, the average individual would
14 be getting \$347, and they would be having that
15 \$347 on a weekly basis for approximately 18-plus
16 weeks.

17 First-payment claims with only a
18 spousal dependency, regardless whether that
19 spousal dependency was a civil union partner or a
20 regular spousal dependency, was 1,210 claims or
21 0.4 percent of all the claims that were filed.
22 Four claims were identified as having a civil
23 union partner or a spousal dependency, and the
24 estimated impact on the trust fund, the fund from
25 which we dole out the Unemployment claims for the

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1 four dependents, is \$1,757.

2 Overall, the passage of civil
3 union has had a minimal impact on, as I
4 mentioned, all of the Department, and
5 particularly with the Unemployment Insurance
6 Compensation Program and the UI trust fund.
7 Again, I believe that there was a smooth
8 transition to include the civil union partners in
9 all areas and related to the spouse or other
10 dependencies, particularly with unemployed
11 individuals.

12 So thank you for letting me have
13 the opportunity to present what LWD's findings
14 are, and, again, I would be happy to answer any

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15 questions that you might have.
16 MR. VESPA-PAPALEO: Thank you,
17 Mr. Director. That was very helpful, very
18 useful. I think it sounds like the transition
19 was smooth with the civil unions --

20 MR. MARINO: Yes, it was.

21 MR. VESPA-PAPALEO: Now, your
22 forms and your training and its implementation
23 with regard to providing the program benefits,
24 if, let's say in the future, the State
25 legislature amended the law to now call it

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1 "marriage" rather than "civil unions," would
2 there be any additional negative impact on your
3 staff or your transition plan?

4 MR. MARINO: No, I do not believe
5 that would exist at all. Again, the instructions
6 that we provide to the staff are pretty explicit,
7 and it would only be a modification of the
8 various documents that we need to identify to the
9 staff to do this. We do not see that there would
10 be any type of negative impact at all.

11 Like anything else, we'd love to
12 have the legislature give us some advance notice
13 on the expectations and what dates that those
14 things occur on, but right now, I do not see any
15 type of transition having any negative impact on
16 it at all. And as I mentioned, the financial
17 impact is very minimal.

18 MR. VESPA-PAPALEO: On the trust
19 fund, the amount of monies would not be in any
20 way adversely impacted?

21 MR. MARINO: That's correct.

22 MR. VESPA-PAPALEO: Any other
23 questions?

24 MR. HYLAND: Of course, I have a
25 question; you know that. In the beginning of

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1 your statement, you said "as evidenced by civil
2 union license" and later on, I heard a statement
3 about marriage license, civil union license and
4 all. So, by that, I'm assuming that if you're
5 asking for proof of the relationship, you're
6 doing equally so for married couples as well as
7 civil union couples?

8 MR. MARINO: Absolutely. We do
9 that for both married couples and civil union
10 partners. One of the concerns that we have is
11 depending on when the marriage takes place. If
12 in fact the marriage took place a year ago or
13 years ago, for instance, then we would be
14 concerned with the income tax or gross income tax

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15 applications that have been filed, and that's
16 something that we would look at first, depending
17 on the date that we find out.

18 But if in fact somebody was just
19 recently married, after they filed their income
20 tax, for instance, for the prior year, then we
21 would be looking for additional proof. That
22 additional proof would be in the form of any type
23 of marriage certificates or demonstrations that
24 they are civil union partners.

25 That goes for anybody, and I think
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1 I mentioned in the beginning that this is
2 something that we do for each and every
3 individual that is applying for dependency.

4 MR. HYLAND: Is your staff trained
5 enough to know that, for example, a civil union
6 certificate from Vermont is proof of a civil
7 union in New Jersey?

8 MR. MARINO: It's interesting that
9 you've asked that, because though I mentioned the
10 that there were four, only one was from New
11 Jersey. I believe two were from Massachusetts
12 and one was from Vermont that we had, and it has
13 only been one that we've had in New Jersey. So
14 we've provided some information, obviously, to
15 the staff with regard to what that entails.

16 As a matter of fact, what we have
17 now, the way the dependency process goes, because
18 there's so little of them, it actually goes to a
19 small unit, six individuals. So it's somewhat
20 specialized right now, but the entire staff has
21 been appraised of what takes place.

22 MR. HYLAND: Great; it sounds like
23 you've anticipated a lot of things.

24 MR. MARINO: Well, we've
25 experienced that considerably in the past; so we

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1 needed to be prepared, and what we tried to do is
2 do these things in a much more organized and much
3 more efficient way. The only way we can handle
4 313,000 claims in a year is to handle it in that
5 type of process and that type of standardization
6 that we're doing.

7 MS. O'LEARY: I wanted to know if
8 any of your standards for, I don't know, I guess
9 your benefits, are reliant or dependent upon
10 federal dollars.

11 MR. MARINO: We are in a
12 partnership with the federal government.
13 Unemployment Insurance is a federally run
14 program. All funds that are collected from the

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15 employer and worker go into a trust fund. They
16 are sent to Washington. Washington in turn
17 allows us to implement our program. So we are
18 dealing with federal dollars here, yes.

19 MS. O'LEARY: I didn't want to
20 open a Pandora's box here --

21 MR. HYLAND: Well, it's an
22 interesting thought, because I hadn't considered
23 it or thought of it, whether the federal
24 government has addressed that in any way.

25 MR. MARINO: As far as I know,

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1 they have not addressed that in any way.

2 MS. O'LEARY: Do they audit you?

3 MR. MARINO: We do get audited
4 from the federal government. There has not been
5 any audits that I know of insofar as the path
6 that you're thinking of here. The only audits
7 that we are involved with -- and the federal
8 government does allow the states to establish
9 standards too as core measurements, so on and so
10 forth. And we have to be in compliance with the
11 U.S. DOL regulations concerning the dependencies
12 and whatnot.

13 MR. HYLAND: Does the U.S. DOL
14 regulations specify the definition of a spouse as
15 only being -- does it actually define what
16 spouse is?

17 MR. MARINO: They leave that up to
18 the state. That's a state program.

19 MR. VESPA-PAPALEO: So they don't
20 actually define what spouse is --

21 MR. MARINO: They would not go
22 into that direction.

23 MR. ORTMAN: Just so that I have
24 it clear, there is no impact of the Defensive
25 Marriage Act on the Department and its

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1 distribution of funds?

2 MR. MARINO: As far as I know,
3 there is none at all. There has been no impact
4 that we have seen at all. And, obviously, over
5 the period of time, we would have seen something
6 by this time with regard to having some
7 negativity that we would have needed to address.

8 MR. VESPA-PAPALEO: In that line
9 of curiosity really, has the Department had any
10 discussion with Massachusetts or other
11 jurisdictions to see if you're running this the
12 same as they do in Massachusetts in terms of the
13 recognition of same-sex relationships?

14 MR. MARINO: Well, I personally

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15 have had some communications with my counterparts
16 in the State of Massachusetts and also in the
17 State of Vermont as late as last October, and
18 it's a similar process. It seems like things are
19 pretty standardized as I saw it.

20 MR. VESPA-PAPALEO: Any other
21 questions? Okay, Mr. Director, thank you very
22 much for being here. Can we have a copy of that
23 testimony?

24 MR. MARINO: (Indicating).

25 MR. VESPA-PAPALEO: Next up would

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1 be Mr. Calabria, very good. Then let's move on
2 with the next testimony. Mr. Calabria, please
3 feel free to come forward and sit up here so that
4 the court reporter can hear your testimony.

5 Joe, would you like to begin and
6 then introduce your colleague?

7 MR. KOMOSINSKI: Thank you. Good
8 afternoon, Commissioners. I'm pleased to have
9 the privilege of providing testimony before you
10 here today. As the State Registrar, I'll be
11 providing testimony regarding the implementation
12 of domestic partnership and the Civil Union Act
13 on behalf of the Department of Health and Senior
14 Services, hereto referred to as DHSS. Following
15 the passage of the Domestic Partnership Act and
16 subsequently the Civil Union Act, a team of
17 individuals representing the DHS, the Attorney
18 General's Office, a local registrar's association
19 and the League of Municipalities conducted
20 training statewide on the implementation of these
21 acts.

22 As New Jersey has the distinction
23 of being the sole state to register domestic
24 partnerships, civil unions and marriage, this
25 training was to educate local offices in the

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1 proper procedures and forms related to each of
2 these vital record events and answer questions
3 specific to registration. While the main focus
4 was on the municipal vital statistics office, the
5 training was open to and sustained by other local
6 government officials and some hospital staff.

7 In addition to this training,
8 Assistant State Registrar Knobloch has and
9 continues to conduct training in conjunction with
10 the regional perinatal consortium for the
11 birthing centers throughout the state to ensure
12 that civil union couples are treated the same as
13 married couples in the birth process.

14 The Office of the Bureau of Vital

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15 Statistics and Registration received a few calls
16 from individuals seeking clarification of the
17 requirements for entering into a civil union or
18 regarding access to the local office to file an
19 application. There were also several calls
20 regarding the process for a reaffirmation of the
21 civil union, which allows a couple already in a
22 civil union or same-sex marriage in another state
23 to register as civil union partners in New
24 Jersey.

25 The training sessions and

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1 implementation of both acts were a great success
2 and resulted in minimal issues with registration
3 of vital records. DHSS expended approximately
4 \$175,000 in the implementation of the Civil Union
5 Act since its passage into law. These funds were
6 utilized for reference in statewide training,
7 redesign of forms, specifically the Domestic
8 Partnership Affidavit and Certificate, redesign
9 of the marriage application, license and
10 certificate, remarriage license and certificate,
11 as well as the design of the civil union license
12 and certificate and reaffirmation of civil union
13 license and certificate. The death certificate
14 and the disinterment permit were also modified,
15 as well as the format of the certified copies of
16 the death certificate.

17 Funds were also expended to revise
18 and reprint the brochures in English and Spanish
19 that advise of the requirements for registering
20 an event. DHSS will also spend an additional
21 \$42,000 annually to supply the 566 municipal
22 registration districts with the various forms and
23 brochures specific to these vital record events.

24 One hundred thousand of the one
25 hundred seventy-five thousand mentioned was for

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1 the reprogramming of the vital statistics
2 software to include the domestic partnership and,
3 following the passage of the Civil Union Act, to
4 revise the domestic partnership and marriage
5 software and develop the civil union component of
6 the software.

7 Vital statistics will incur costs
8 for staff to spend time to match the termination
9 of the domestic partnerships after a couple
10 enters into a civil union. As a representative
11 for DHSS, I provide monthly status reports on the
12 numbers of civil unions and domestic partnerships
13 since the passage of the Civil Union Act and the
14 legislative changes to the Domestic Partnership

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15 Act, and only 34 domestic partnerships have been
16 registered based on the development of the
17 various forms that were put in place for civil
18 union and domestic partnership.

19 The Department will have no
20 negative impact if domestic partners or civil
21 unions lead to marriage. It will actually have a
22 savings for the Department in that we won't
23 produce as many forms. We won't have to mail
24 those forms, and it will allow us to form a more
25 standardized document for vital record

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1 registration.

2 At this time, I can answer
3 questions.

4 MR. VESPA-PAPALEO: Commissioner
5 Ortman?

6 MR. ORTMAN: Thank you for that
7 wonderful report, Joe. A question for you, just
8 to be picayune. It costs the Department \$175,000
9 for new forms and all of those kinds of things.
10 Do you have any idea what it would cost per year
11 for those forms anyway?

12 MR. KOMOSINSKI: There actually
13 would be -- I don't have a specific number, but
14 there would be about a reduction of a third if it
15 were not a separate and distinct form.

16 MR. ORTMAN: So it would cost
17 two-thirds of \$175,000 if there were not a
18 specialized form to include civil unions?

19 MR. KOMOSINSKI: Actually, it's
20 the reverse. It would cost us one-third, because
21 we wouldn't have to worry about the civil union
22 forms. It would be the marriage forms.

23 MR. ORTMAN: It's more than
24 substantial --

25 MR. KOMOSINSKI: Yes, it's the

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1 major part of the budget plan.

2 MR. VESPA-PAPALEO: Joe, following
3 up on that, if the legislature at some point
4 decided to enact marriage instead of civil unions
5 but keep domestic partnership for 62-year-old
6 opposite-sex couples, would there be any
7 additional costs beyond what you're already
8 spending at the Department?

9 MR. KOMOSINSKI: No; there
10 wouldn't be any additional costs.

11 MR. VESPA-PAPALEO: Because your
12 computer software has already been changed to
13 include domestic partners, correct?

14 MR. KOMOSINSKI: Right. The only

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15 expense we would have with domestic partners in
16 keeping it is that with the small numbers that
17 are registered, even though we only have 34, we
18 have to make sure we supply the 566 local offices
19 with enough information so that they can provide
20 that information.

21 MR. HYLAND: Joe, this is not
22 really directed to your testimony, but I have
23 encountered couples who are in a civil union and
24 who for insurance purposes have had to have their
25 child at a hospital outside of the State of New

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1 Jersey, for example, in New York City or in
2 Philadelphia or in Delaware, because of work-
3 related insurance and that sort of thing. As a
4 result, both parents are not placed on the birth
5 certificate in those states.

6 I reached out to your
7 counterpart's office in New York State, I learned
8 by the way that New York State and New York
9 County have different birth certificate things,
10 but they indicated to me that if your office
11 reached out to their office, they could obtain an
12 opinion as to whether or not a judgment of
13 parentage from New Jersey would be allowed as a
14 means of changing the birth certificate in that
15 state for purposes of having both parents placed
16 on the birth certificate in that state.

17 He indicated -- it was legal
18 counsel for them - that it appeared that New York
19 State would allow changing a birth certificate
20 upon submission of a judgment of a New Jersey
21 court that there was a parent needed to be added.
22 And if you could reach out also to Pennsylvania
23 and to Delaware and New York County and see if we
24 can get clarification on that, that would be very
25 helpful.

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1 MR. VESPA-PAPALEO: Thank you,
2 Commissioner. Would you like to introduce your
3 colleague?

4 MR. KOMOSINSKI: Sure. I would
5 like to introduce John Calabria. He will be
6 testifying on other areas for the public.

7 MR. CALABRIA: Thank you, Joe;
8 thank you, Commissioner. Good afternoon to
9 everyone. The Commissioner's Office of the
10 Department of Health and Senior Services asked me
11 to come and briefly remark about how we would
12 enforce the act to members of this Commission.

13 I'm the Director of the
14 Certificate of Need and Healthcare Facility

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15 Licensure for the Department, and in my division,
16 besides my unit, are the inspectors, the unit
17 that does the inspections and surveys of
18 healthcare facilities and responds to any
19 complaints about healthcare, as well as the unit
20 that enforces any violations of the regulations.
21 Enforcement would be through -- well, the most
22 common enforcement is the civil monetary penalty,
23 but if it's something very serious, it could be a
24 revocation of a license.

25 On February 22, 2007, former

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1 Commissioner Dr. Fred Jacobs issued a memo to all
2 licensed healthcare facilities notifying them
3 that the effective date of the Act was February
4 19, 2007 and noted that the Act requires that all
5 persons in a civil union shall receive the same
6 benefits and protections and be subject to the
7 same responsibilities as spouses in a marriage.

8 He went on to say that all
9 licensed healthcare facilities are required to
10 have policies in place implementing protections
11 of patient rights and to treat partners in a
12 civil union as spouses in a marriage.

13 Last January, in our regular
14 update of our ambulatory care facility licensing
15 regulations, in the section on medical records
16 where we defined legally authorized
17 representatives, we added civil union partners to
18 that for spouses, and we will be doing that in
19 our other regs as they come up in review. But in
20 the interim, we can enforce this memo that Dr.
21 Jacobs had sent to the facilities.

22 To date, I have checked with our
23 inspection unit just before I came over here. We
24 have received no complaints, and I know the
25 Chairperson mentioned there are five unresolved

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1 complaints, and if they should happen to revolve
2 around healthcare facilities, please let me know,
3 and I'll take that back. But we have received no
4 complaints, and all facilities when they receive
5 a license receive a placard from us to notify
6 members of the public that if they're unhappy
7 with any of the services they've received or if
8 they believe there have been any violations, it
9 provides a toll-free number to our complaint
10 program that an individual can call. That
11 number, in case anyone is interested, is 800-792-
12 9770.

13 So we would investigate any
14 complaints about a violation of any of our

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15 regulations or any statutes that are enforced
16 against healthcare facilities. So we've received
17 no complaints, and our inspections have found no
18 violations of this memo that facilities don't
19 have in place policies and procedures to make
20 sure the law is followed.

21 MR. VESPA-PAPALEO: Director, I
22 have a question: Can you define or share with us
23 the definition of "healthcare facilities" besides
24 hospitals, which we know? What other kinds of
25 facilities do you license?

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1 MR. CALABRIA: Healthcare is kind
2 of a little vague in the statute, and it
3 prohibits us from regulating the private practice
4 of medicine, and we do not regulate state-run
5 facilities like the state psychiatric hospitals.
6 But, in general, healthcare facilities that we
7 regulate are hospitals, nursing homes, special
8 hospitals, certain private psychiatric hospitals,
9 various types of ambulatory care facilities, for
10 example, facilities that provide diagnostic
11 imaging services, ambulatory surgical facilities,
12 home health agencies, hospice care providers.
13 That gives you an idea of the gamut of facilities
14 that we license, and, therefore, this memo on all
15 the rules that we have are effective against.

16 MR. VESPA-PAPALEO: Now, if an
17 individual is in New Jersey and goes to one of
18 these licensed facilities and runs into a problem
19 with a staff member there, a problem involving,
20 let's say, their inability to see someone in that
21 hospital because they're a civil union partner
22 and they don't have their civil union certificate
23 there, or they're being asked to show their
24 certificate just to go see their partner in a
25 room, and they're being denied that kind of

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1 access, that person could contact your office?

2 MR. CALABRIA: They could either
3 contact my office or that toll-free number I gave
4 you. Now, complaints are investigated on --
5 they're prioritized. I mean, if something
6 results in a patient's death, for example, that
7 is given a higher priority than we didn't like
8 the food type of thing. But oftentimes an
9 inspector, for something like you mentioned,
10 something that should be done immediately because
11 it's a visitor -- they're not going to wait a
12 month to come back and visit -- will then call
13 my office, and I will call the facility and find
14 out what's going on.

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15 MR. VESPA-PAPALEO: If,
16 alternatively, we get inquiries about things like
17 that periodically at the Division on Civil Rights
18 that would certainly violate the law against
19 discrimination, which is different than your
20 licensure laws, if we happen to take a case like
21 that, investigate it, and the investigators
22 discovered that there actually was a violation of
23 the law, and we could prove that, would we then
24 be able to refer that to your office for a
25 potential license revocation?

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1 MR. CALABRIA: Yes, sure.
2 MR. VESPA-PAPALEO: All right;
3 that's helpful to know.
4 Any questions? Barbara Allen?
5 MS. ALLEN: I have a question
6 about the notices that are posted at these
7 healthcare facilities. Do you also inspect to
8 see that they are posted, and are they posted on
9 every floor of the hospital or just one location?
10 MR. CALABRIA: They normally only
11 have to be posted in one spot. It's where the
12 license is kept. A general public place is the
13 requirement.
14 MS. ALLEN: But that's why I would
15 assume that you're getting very little in the way
16 of complaints, because if I'm on the fifth floor
17 of a particular hospital, and this is where the
18 event took place, but the sign is in the office
19 of the main lobby, I might not know that there's
20 a place for me to call an 800 number with a
21 complaint about the way that I have received
22 services.
23 MR. CALABRIA: Well, we do receive
24 around 8,000 or 9,000 complaints a year; so I
25 think --

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1 MS. ALLEN: I just wondered that
2 that might account for one of the reasons.
3 MR. CALABRIA: It's certainly a
4 possibility, but, again, I think our complaint
5 program is -- and it may be that people who are
6 affected by this issue may not know that they can
7 call because of that; that could be part of it.
8 MS. ALLEN: What does the sign say
9 exactly?
10 MR. CALABRIA: I just paraphrased
11 it. I don't know what it says exactly, but, in
12 effect, if you're dissatisfied with the service
13 or you feel that it's a violation of your rights
14 or the rules, that you may call this toll-free

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15 number.

16 MS. ALLEN: So it's pretty

17 general?

18 MR. CALABRIA: It's pretty

19 general, yes.

20 MR. HYLAND: You mentioned that
21 you have a requirement that they file a policy,
22 or are they required -- this policy statement
23 that was required, are they required to file that
24 as part of the licensing procedure?

25 MR. CALABRIA: They're not.

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1 MR. HYLAND: So you have no way of
2 determining whether they in fact do have a
3 written policy?

4 MR. CALABRIA: Healthcare
5 facilities are required to have it on the
6 premises, and our inspectors look at that when
7 it's relevant for the survey for infection
8 control, housekeeping, sanitation and things like
9 that, but they're not required to send them to
10 the department.

11 MR. HYLAND: Under New Jersey
12 regulations, is there any kind of exemption on
13 some of these things for religious-based
14 hospitals and medical facilities, that sort of
15 thing.

16 MR. CALABRIA: None of our
17 regulations exempt religious-based facilities
18 from any of our regulations.

19 MR. HYLAND: So a hospital, for
20 example, like Lourdes, could not have a policy
21 that they would not recognize civil unions and
22 claim an exemption?

23 MR. CALABRIA: Not by our
24 regulations; our regulations are pretty clear.
25 The regulations in Dr. Jacobs' memo are pretty

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1 clear, and it didn't have any exemptions.

2 MR. GOLDSTEIN: One of the
3 questions that LGBT had, lesbians, gays,
4 bisexuals and transgender rights organizations
5 get regarding hospital access by partners who are
6 in a domestic partnership or in a civil union is,
7 well, what good is it if I call some government
8 hotline, because my problem is immediate. Like,
9 if I'm being denied access right now, I care less
10 about how it will play out in the months ahead or
11 even suing; I want access now. And I know it's a
12 tricky question to ask, but government doesn't
13 have the capacity often to provide emergency
14 assistance, but is there any mechanism -- it's a

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15 very colloquial question.

16 Suppose somebody did call you
17 during the day at the 800 number: "Hi, I'm at a
18 hospital, and 'X' hospital is not allowing me in.
19 I said I was a civil union partner, and they
20 said, 'Well, what does civil union mean? What's
21 that? We're not letting you in. I never heard
22 of that. It's not marriage.'" If there is an
23 emergency, is there any mechanism to expedite
24 something? I have to ask, and I assume the
25 answer is no, which is understandable, is the

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1 government official on the other line empowered
2 to do anything quasi-emergency?

3 MR. CALABRIA: Well, there are
4 times when my office, the Office of Certificate
5 of Need and Healthcare Facility Licensure, gets a
6 call either from an inspector or from some member
7 of the public. It doesn't happen often, but on
8 occasion, and depending on what it is, we will in
9 fact call the facility right away and say, "I've
10 had this call. This is the situation. Tell me
11 what's going on." And if it's something like
12 this, I would say, "You know, you're in
13 violation. Dr. Jacobs sent a memo out to you on
14 November 22nd telling your facility all of this,
15 and you would be in violation of this."

16 And if that's the case, we will
17 inform our inspection unit, which is the unit
18 that is empowered to go out and investigate this
19 and then write up a deficiency.

20 MR. GOLDSTEIN: But if I'm a
21 member of the public and I'm in a hospital, I
22 could get somebody?

23 MR. CALABRIA: You could get
24 somebody from my office, yes.

25 MR. GOLDSTEIN: Well, not just --

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1 I want to say this with all due respect -- an
2 initial triager but somebody who, if I'm in the
3 hospital and they're talking to me, I could then
4 put a head nurse or whoever is at the desk, the
5 admittance desk, I could shove my cell phone in
6 their face and say, "Look, you don't have to
7 believe me. Talk to the government official
8 directly."

9 MR. CALABRIA: Well, you could do
10 that, yes. Generally speaking, they would refer
11 myself or one of my staff to their CEO, and I
12 would suspect that would be likely. But
13 certainly the person who is saying no to someone
14 who has called like that would be willing to

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15 speak to my staff --

16 MR. GOLDSTEIN: We actually get
17 the question, "What do I do?" We get this
18 question all the time, "If I get somebody, could
19 I actually take my cell phone to the admitting
20 desk or nurse, what have you, and say, 'Well, you
21 don't have to believe me; talk to the government
22 official.'"

23 MR. CALABRIA: And we have, not
24 exactly that scenario, but we have had calls
25 where there's been an issue that had to be

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1 resolved immediately, not because an inspector
2 was there, or sometimes because an inspector was
3 there, but an issue that had to be resolved
4 immediately, or my office is called for
5 interpretation of our rules and statutes, and
6 we've done it right on the spot.

7 MR. ORTMAN: That's one-third of
8 the day of the 24-hour clock when the office is
9 open and somebody is there to inquire of.

10 MR. CALABRIA: Well, yes, that's
11 true.

12 MS. ALLEN: It's not a 24-hour
13 hotline.

14 MR. CALABRIA: That's right. The
15 complaint hotline is answered by machine 24/7.
16 If there's a really serious problem, something
17 blows up in the building, something that actually
18 endangers a lot of lives and stuff like that,
19 there is a number that the state operator calls.

20 MR. GOLDSTEIN: I know this sounds
21 crazy, but no matter what language we stick with,
22 civil unions or of marriages that encompass
23 same-sex couples, I almost wish there was a
24 mechanism, because this problem won't stop. I
25 mean, hospitals for the most part have a problem

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1 with civil unions, but there will be some
2 hospitals, should the state get marriage equality
3 and still have a problem -- I'm going to put
4 this idea out there -- that your department
5 would almost work with local law enforcement.

6 When somebody is at a hospital at
7 10 o'clock at night, I almost wish that local
8 police or somebody was almost trained in this
9 law, where if it's an emergency, somebody could
10 get called or be briefed, because our experience
11 has been where hospital discrimination can be
12 combative, where when there's a third party who
13 is government on the phone, then the admittance
14 desk shapes up quickly.

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15 Like in the practical world, they
16 don't believe the patient, and if this was after
17 hours, and most of these occur after work hours
18 -- I don't know; I'm free associating -- that a
19 government agency like yours could issue a memo
20 to local law authorities --

21 MR. TAYLOR: I completely receive
22 and appreciate your point, but I'm home in my
23 same utopia where I live across the street from
24 you, that because there's a debate with the
25 language of domestic partnership, there's a

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1 debate with the language of civil unions. There
2 is no debate with marriage.

3 MR. GOLDSTEIN: You're right.
4 What I'm saying is, most of the problem has to do
5 with people have a problem ideologically or with
6 understanding the term "civil union" to get that
7 final last percentage, even should we get
8 marriage equality.

9 MR. TAYLOR: If I'm married and
10 you stop me from seeing my husband, I'm knocking
11 you down, because I have the law on my side.

12 MS. ALLEN: Then the police will
13 be called.

14 MR. CALABRIA: One of the things I
15 might mention is that my staff and I meet
16 quarterly with most trade associations that
17 represent most healthcare facilities, and we did
18 bring this up, the trade association
19 representatives of all various healthcare
20 facilities.

21 MR. GOLDSTEIN: It was
22 interesting, the head of a trade association that
23 deals with hospitals, the head, said she read
24 somewhere that we who are in the LGBT active
25 community said that there are cases where

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1 hospitals are presenting roadblocks to people who
2 are in civil unions. And the head of the trade
3 association said that it is absolutely not
4 happening in the State of New Jersey. And I
5 looked at our records -- she said flat out --
6 she denied it: "It's not happening; it's
7 libelous. How could you say that?"

8 I said, "You don't understand
9 libel law." She claimed that we were hurting the
10 feelings of the trade association. I said,
11 "Sorry, that's not libelous. I'm sorry to hurt
12 your feelings. I'll pay for your shrink." I
13 mean, I'm sorry.

14 But she said, "This is absolutely

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15 not happening in New Jersey. There is not a
16 single case of a single hospital in the State of
17 New Jersey" -- this is what she said, and this
18 was recently. And she said, "I want to hear from
19 some people." So we had people call. And so the
20 trade associations, at least this very, very
21 large one, didn't buy that there was a problem.

22 MR. CALABRIA: Well, again, I
23 would never use terms like "never happened" --

24 MR. GOLDSTEIN: She said that
25 never happened.

0055

1 MR. CALABRIA: -- in anything.
2 I've been with the Department 32 years, and
3 there's things I thought would never happen that
4 I've seen happen over the years. But the only
5 thing I can report is that we've had no
6 complaints, and that's probably the most likely
7 way we would know that this is happening.

8 It's probably unlikely that during
9 a survey somebody would look at a medical record
10 and it would be in the medical record that we
11 discriminated against somebody. So I urge you to
12 get out the word that if someone feels there has
13 been discrimination, to give that toll-free
14 number a call.

15 MS. ALLEN: A question regarding
16 the memo from the former Commissioner: Did it
17 require that the hospitals provide training to
18 staff? Because I think part of the issue was
19 related to these individual cases. The testimony
20 that we heard at public hearings was that
21 individuals in hospital settings were denied
22 access to their partners. So it seems that there
23 might be an ideation issue related to nursing
24 staff or other medical staff not allowing people
25 in. So is there any requirement --

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1 MR. CALABRIA: No; that wasn't
2 required in the memo, but that's something
3 that --

4 MS. ALLEN: Well, I don't have a
5 copy of the memo; so I don't know what the memo
6 said. Maybe you could read it into the record.
7 But it seems to me that sending a memo to a
8 hospital administrator and asking them to
9 implement the law without there being some
10 concurrent training of staff -- because that's
11 who it has to filter down to, the people working
12 in the wards, the people working in the units who
13 deal with patients and their families. So it may
14 be that they were told, but I don't know that it

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15 filtered down to staff or --

16 MR. CALABRIA: That's certainly a
17 possibility, although we have had pretty good
18 success for other types of things that we have
19 sent memos to the CEOs that are required to be
20 done. But that's a good point, and maybe as we
21 develop our regulations, that would be something
22 that we should put in, not only develop the
23 policies and procedures but train your staff.

24 MR. HYLAND: Implement training
25 and provide that there's a certain amount of

0057

1 training being done on an annual basis.

2 MS. ALLEN: Because that's what it
3 seems like the issue is, that you have
4 individuals who are making their own
5 determination of what they believe is the law or
6 what they believe about what a marriage can be,
7 and so people come in and are explaining, "This
8 is my partner. I need to see that person or make
9 medical decisions for that person," and maybe
10 they're not understanding that there has been a
11 change in the law. So I don't know if it's
12 filtered.

13 MR. HYLAND: It seems to me also
14 that the idea of using just an 800 number -- I
15 recall that many healthcare facilities have a
16 patient advocate on staff, and usually that's
17 somebody who is there, and maybe that would be a
18 more appropriate mechanism, to have somebody that
19 they can go to immediately on staff who has that
20 responsibility for ensuring that these types of
21 policies are carried out. Then you're not
22 worried so much about somebody calling an 800
23 number. An 800 number is more of a backup for
24 that person.

25 MR. CALABRIA: That's certainly a

0058

1 point, but I think too that we have, like, 2000
2 licensed facilities, and only 77 -- decreasing a
3 little bit as we speak -- are general hospitals.
4 So I think we want this effective for all
5 licensed facilities, nursing homes, assisted
6 living facilities.

7 MR. VESPA-PAPALEO: Director, are
8 there any mechanisms or strategies that have been
9 implemented in the past to sort of test whether
10 hospitals or licensed healthcare facilities are
11 actually complying with various laws? For
12 example, do you ever send in like undercover
13 inspectors or people testing, like acting in the
14 role of someone seeking a service, to see how the

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15 hospital staff responds?

16 MR. CALABRIA: Generally, we don't
17 do that, but all of our inspections are surprise
18 inspections. We don't say we'll be there next
19 Wednesday, except for before you open; that's the
20 only one.

21 MR. HYLAND: I'm going to send
22 Reverend Taylor in with his husband.

23 MR. TAYLOR: Don't do it.

24 MR. KOMOSINSKI: Just for a
25 follow-up for vital statistics, when we deal with

0059

1 the birth clerks and issues, we have seen that
2 even though we have done some training, when
3 there is a question, at least for us, they do
4 know to call and they ask us a question. We do
5 have that training, and some of those nurses work
6 in different areas and different things. So at
7 least in the hospitals and the birthing
8 facilities, I think they may be a little bit more
9 aware of civil unions, and they have had some
10 training and they talked about that at various
11 areas. So they do have us as a recourse to call
12 and ask us for specific questions. Often there's
13 a lot of turnover; so we do have additional
14 training sessions that are going out, and we're
15 working on a CD to have for them.

16 And just on inspections for local
17 registration issues, we actually are starting our
18 inspections this summer to go out and do the same
19 thing, send someone in that's unannounced and ask
20 questions about various things, one of the things
21 being civil unions and how to register and can
22 they register and the process for that, so that
23 we can see if there's someone who has
24 misinformation so that we can get them corrected.
25 I think it's fair to say that the majority of

0060

1 them have a very good understanding of it. The
2 odd, unique situation that comes up, they'll have
3 a question, and they definitely reach out to us,
4 but just to ensure that someone walking in off
5 the street as the public is treated
6 professionally for whatever the reason they're
7 there for.

8 MR. VESPA-PAPALEO: Joe, I know
9 that you're involved with some of these
10 organizations of local registrars and other
11 groups. I just saw a news article from two days
12 ago in another jurisdiction where a local
13 registrar was actually filing suit claiming there
14 was a violation of her rights to participate in

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15 the distribution of domestic partnership
16 certificates because it violated her religious
17 rights. And I don't know where that case will
18 stand, but have you seen any push-back from any
19 registrars in the State or any people in that
20 profession?

21 MR. KOMOSINSKI: Interestingly
22 enough, not so much for civil union, because
23 domestic partnerships laid that groundwork
24 initially. When we did do the initial
25 presentations about domestic partnership, we did

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1 have a couple people that stood up and said "I'm
2 morally opposed to this. I don't think I should
3 have to do this," and they were told, "This is a
4 statute that's in place that you will register
5 them. If you for whatever reason can't do so,
6 then you need to resign your position." We did
7 have a couple people, maybe three or four, that
8 did resign their position. We had a couple
9 people that came forward when civil unions came
10 about, and we said, "We have taken a very hard
11 line that if you can't perform the duties of your
12 job, you need to resign that position."

13 By statute, I do have the
14 authority to approve or remove someone from their
15 office. So we have had one situation that we're
16 looking into. There was a report that someone is
17 not willing to accept civil unions; so we're
18 looking to see if it's true or if it's just an
19 office politics type of thing, and then we will
20 take appropriate action. But we have been pretty
21 swift and standard on that and told them up front
22 that if you can't do this job, then you need to
23 remove yourself.

24 MR. VESPA-PAPALEO: What's the
25 name of the state association?

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1 MR. KOMOSINSKI: It's the local
2 registrar's association.

3 MR. VESPA-PAPALEO: Has the local
4 registrar's association taken any formal policy
5 position on civil unions, marriage and whether
6 there would be any additional impact on local
7 registrars if the State ended up going to
8 marriage rather than what we have now?

9 MR. KOMOSINSKI: They have not,
10 but it's kind of a unique situation in that I
11 have a lot of authority over the local offices
12 with registration of documents, and I establish
13 the forms that are required. So, in a completely
14 different area, we have an electronic death

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15 registration system that's going in place so that
16 paper form will be replaced. So we've trained
17 all the locals on that, and some of them said,
18 "Well, we don't want to use the electronic
19 system," and I said, "You don't have any option;
20 you're going to use the electronic system. The
21 paper system is not in place any longer."

22 They don't have a lot of authority
23 to determine what they're going to do and what
24 they're not going to do. But for them, as far as
25 performing their job, I know that they have

0063

1 stated that it would be easier for them in many
2 instances if it was marriage, because it's
3 marriage yes or no. They don't have to worry
4 about the unique situations to say, well, should
5 this be a civil union; is this a domestic
6 partnership.

7 And we have had, just as an aside,
8 couples that were heterosexual couples that got
9 married, and the local registrar who filled out
10 the paperwork wasn't paying attention, because
11 the forms looked identical, and grabbed a civil
12 union form and completed it and didn't realize
13 that it was on the wrong form. There was no
14 public outcry to say it's on the wrong form; it
15 should be a marriage. It was pretty much
16 straightforward. We just replaced that form. So
17 there wasn't a lot of push-back on that. The
18 locals would rather have just one form that's
19 standard. That makes their job easier to
20 process.

21 MR. VESPA-PAPALEO: Any other
22 questions? Okay; thank you both very much.
23 Thank you for being here.

24 Let me just ask our friend from
25 the Department of Public Advocate to step up.

0064

1 Welcome.

2 MS. SHARPE: Hi, I'm Nicole
3 Sharpe, and I'm counsel to the Public Advocate
4 and Ronald Chen, who regrets he could not be here
5 this afternoon, but he had to be in Camden.
6 However, he felt that it was important to have a
7 representative here to testify on his behalf, and
8 that's why I'm here. I guess I'm answering in
9 terms of the questions that we received, which
10 are based on the statutory requirements of the
11 review by the Commission.

12 With regard to the first question,
13 the financial impact, what is the financial
14 impact on the Department of the Public Advocate

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15 of same-sex couples being provided civil unions
16 rather than marriage? Well, the answer is
17 negligible to none. To clarify a little, we do
18 have an Office of Civil Relations within our
19 Department where we get complaints from citizens,
20 but to date, we have never had one on the civil
21 union issue. So that's why I say "negligible to
22 none," because it's always possible that we could
23 get a complaint.

24 With respect to the effectiveness
25 of the Civil Union Act, the Department of Public

0065

1 Advocate is concerned about indications that
2 compliance issues involving the Act have a
3 greater adverse effect on lower income residents
4 of the State. As you may know, the Department of
5 the Public Advocate is charged with ensuring that
6 the voices of the people are heard, particularly
7 the voices of our most vulnerable citizens. When
8 employers fail to recognize employees' civil
9 unions as being equal to marriage and fail to
10 provide health insurance benefits to their
11 partners, employees in lower income brackets are
12 least likely to have the resources to seek legal
13 redress. Additionally, lower income individuals
14 are the least able to meet the additional
15 expenses associated with reduced healthcare
16 benefits. So this is of concern for us as the
17 Public Advocate.

18 But the issue that I guess plays
19 the most into our Department is the Domestic
20 Partnership Act, and nobody has really spoken
21 much on that in terms of the testimony you've
22 received. But for us, the Domestic Partnership
23 Act is very important. We are in favor of not
24 repealing this law. Domestic partnership
25 provides a necessary alternative for couples who

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1 are age 62 and older. As the Department that
2 houses the Division of Elder Advocacy, we believe
3 that the Domestic Partnership Act provides
4 important advantages for senior citizens related
5 to medical treatment, State taxes and public
6 employee benefits. Domestic partners have the
7 right to make decisions about medical treatment
8 on behalf of each other, and they have hospital
9 visitation rights that are equal to those of
10 spouses. One partner can claim the other as a
11 dependent on State tax returns. Domestic
12 partnership also qualifies them to receive
13 beneficial tax treatment when one transfers
14 property to the other as a gift or as part of an

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15 estate.

16 For many public employees,
17 domestic partnership entitles their partners to
18 pension and retirement benefits as well as health
19 insurance coverage. At the same time, domestic
20 partners do not risk losing Social Security
21 benefits as they would in some circumstances if
22 they were to marry. While there have not been
23 overwhelming numbers of seniors registering as
24 domestic partners, we believe that over time,
25 more seniors will become aware of that option and

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1 choose to take advantage of it. I believe the
2 statistics were that there were 34 this year, and
3 in previous years, 35 or so. But part of it, I
4 think, is that they're not aware. So, for all
5 those reasons, we are for not repealing the
6 Domestic Partnership Act.

7 That's about it.

8 MR. GOLDSTEIN: Does the Public
9 Advocate's Office have a position on whether the
10 domestic partnership law for opposite-sex couples
11 over 62 should actually be expanded, not just
12 kept? In New Mexico, they're about to enact or
13 enacted a domestic partnership law that provides
14 all rights to seniors. Do you have a position on
15 that? Because I think right now it's only ten or
16 so rights.

17 MS. SHARPE: I've never discussed
18 that with the Public Advocate himself. I would
19 think if it's beneficial to seniors, it's
20 something that we would support. I know the
21 Domestic Partnership Act, for instance, does not
22 apply to inheritance to families --

23 MR. GOLDSTEIN: Actually, it does;
24 it was amended --

25
0068

1 MR. HYLAND: The probate code was
2 amended, and the guardianship code was amended so
3 that domestic partners, if they are registered,
4 are treated equal to marriage spouses.

5 MS. SHARP: Okay, but in the Act
6 itself, it doesn't speak to that.

7 MR. HYLAND: No; but it was
8 amended.

9 MR. VESPA-PAPALEO: Any other
10 questions for the Public Advocate?

11 MR. HYLAND: You raised the issue
12 of the Domestic Partnership Act in that it should
13 be continued for seniors, but I think that my
14 colleague here, Mr. Goldstein, is correct that
15 maybe we should be looking at this as a status

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15 that's a lesser status for couples who just
16 choose not to want to be married. Is there
17 anything that the Public Advocate's Office would
18 add to that or would consider in terms of that?

19 MR. VESPA-PAPALEO: It sounds like
20 it's something that has not been reviewed by the
21 Public Advocate; so it would be unfair to put her
22 on the spot to ask her about a speculative piece
23 of legislation. But perhaps if going forward
24 there is something like that, if we would reach
25 out to your office and get a determination of

0069

1 your position on that, that would be something
2 you could do?

3 MS. SHARPE: Yes, absolutely, if
4 you contact me, and I'll pass it on.

5 MR. VESPA-PAPALEO: Okay.

6 MR. TAYLOR: Nicole, I appreciate
7 the original point that you brought up about the
8 civil unions as it relates to the impact on lower
9 income families, because that has come up often
10 in communities of color. And I'm concerned or I
11 would like to put on the record the Public
12 Advocate Office's role as if you were an advocate
13 for those fighting, because I'm looking at the
14 couple who might run into trouble who in fact
15 doesn't have some of the resources that they
16 need. Do they know the role that the Office of
17 the Public Advocate plays and perhaps being an
18 initial kind of point of contact to be able to
19 get them assistance when they find themselves in
20 some sort of conflict under the law?

21 MS. SHARPE: Well, we have the
22 Division of Citizen Relations, which is the
23 contact point for people in the public to the
24 Public Advocate. So, I mean, if any issue -- I
25 mean, our jurisdiction is so broad. Basically,

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1 if someone in the general public is finding a
2 problem with any governmental entity or even
3 private entities, they can always contact us.
4 And it's on our Web site, Office of Citizen
5 Relations, and that would be the way to get in
6 there.

7 I mean, what we do is, we have a
8 Public Interest Advocacy Division which actually
9 files suit on behalf of the public, and they pull
10 the cases from complaints that we get through
11 Citizen Relations. So if it's a large enough
12 issue, then we can pursue it legally, and if
13 we're not able to resolve it through negotiating
14 with the entities, that would be the path to

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15 take.

16 MR. TAYLOR: So is the Office of
17 the Public Advocate kind of a brochured kind of
18 -- because I love to empower my congregation with
19 information, and I'm seeing the Office of the
20 Public Advocate for the first time --

21 MS. SHARPE: I wish I brought some
22 brochures in.

23 MR. TAYLOR: -- so I would like to
24 get your information. If you have some, I would
25 like some.

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1 MS. SHARPE: Yes, absolutely.

2 Next time I will bring them.

3 MR. VESPA-PAPALEO: If you bring
4 them over to us, we will distribute them.

5 MS. SHARPE: Certainly.

6 MR. VESPA-PAPALEO: We have a very
7 diverse group of Commissioners. We have access
8 to real live bodies of people who are impacted by
9 these laws.

10 MR. ORTMAN: And the souls that
11 dwell in those bodies.

12 MR. TAYLOR: Hallelujah.

13 MS. SHARPE: The Public Advocate
14 was restored by Governor -- since Governor
15 Corzine has been in office, and Ron Chen is the
16 first Public Advocate, and he was appointed in
17 2006. So I guess we have to get the word out
18 more.

19 MR. TAYLOR: Absolutely.

20 MR. VESPA-PAPALEO: Any other
21 questions? Well, thank you very much, Nicole,
22 for being here. Please send our regards to the
23 Public Advocate. Take care.

24 MS. SHARPE: Thank you.

25 MR. VESPA-PAPALEO: We're going to

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1 take a five-minute break and then return at 3
2 o'clock.

3 (A recess was taken.)

4 MR. GOLDSTEIN: The meeting is
5 back on, if we can resume. In this second half
6 of the meeting, where the theme is the impact of
7 labor, marriage equality, civil unions and labor,
8 with us by telephone is the distinguished Carla
9 Katz, who is President of the Communications
10 Workers of America Local 1034, which is the
11 largest such local in the country. Carla, we're
12 thrilled to have you with us.

13 In person is Mauro Camporeale, who
14 is Executive Director of the Bergen County

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15 Central Labor Council, and Carol Gay, who is an
16 executive officer of the New Jersey Industrial
17 Union Council.

18 And, Carla, we would be honored to
19 begin with you, and there's about a dozen or so
20 Commissioners and Carla by phone; feel free.

21 MS. KATZ: Right, thank you.

22 Sorry I couldn't be there in person. I had a few
23 other things to do today. Let me just tell you
24 about my local. My local represents 80,000
25 working men and women across New Jersey. We are

0073

1 both public sector and private sector workers in
2 almost every job imaginable, professionals,
3 administrative, clerical, blue collar, cafeteria
4 workers to nuclear engineers. We have members in
5 125 different bargaining units, and so we've had
6 a very wide variety of experiences.

7 One of the things that I want to
8 say on behalf of my local is that we believe that
9 marriage equality is not just a civil rights
10 issue, but it really is a labor issue, and that
11 only marriage equality and not civil unions can
12 guarantee true equality in collective bargaining
13 agreements. And our agreements that confer
14 benefits on married employees or spouses of
15 employees really do not apply in the same way to
16 folks that have achieved a civil union.

17 It is our feeling and belief that
18 it's wrong for workers who are in comparable jobs
19 to receive different financial benefits based on
20 their sexual orientation, just as it would be the
21 case if people were being discriminated against
22 based on some other protective class, gender,
23 race, age or religion.

24 And what has happened with the
25 invocation of ERISA by certain employers in

0074

1 refusing to grant benefits to civil union couples
2 does exactly that; it discriminates against
3 workers based on their sexual orientation. We
4 absolutely can't say that civil unions in New
5 Jersey are just as good as marriage or even good
6 enough. There has already been an overwhelming
7 amount of evidence presented to you at the Civil
8 Union Review Commission, but papers across the
9 State have also conducted their own independent
10 investigations about how the civil union law has
11 been working, and they all seem to arrive at the
12 same conclusion, which is that it's not providing
13 same-sex couples with the same rights and
14 benefits that marriage would provide.

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15 So we feel strongly that it's
16 demoralizing for LGBT employees in the workplace
17 to be treated differently from straight
18 employees. Everyone is working side by side.
19 It's certainly a strong labor belief that all
20 workers should be treated equally, and that's not
21 the case here in New Jersey. I have long felt
22 that New Jersey needed to lead the way on this
23 issue. I was very happy to see that California
24 has made progress, but marriage is a fundamental
25 right as well as a civil right, and marriage

0075

1 equality for New Jersey citizens should be the
2 law.

3 It is something that we have tried
4 to achieve in other fashion in the collective
5 bargaining process, but it will not be truly
6 achieved until marriage for all citizens in the
7 State is the law as opposed to the piecemeal
8 approach that we have been seeing.

9 And that's it. If you want to ask
10 me any questions --

11 MR. GOLDSTEIN: Thank you, Carla.

12 Any questions?

13 MR. HYLAND: Carla, this is

14 Stephen Hyland.

15 MS. KATZ: Hi, how are you?

16 MR. HYLAND: I'm fine. I've heard
17 that the issue of collective bargaining and
18 contracts that were subject to collective
19 bargaining, there may be some folks who are
20 claiming there's some exemption there and that
21 benefits cannot be implemented until after or
22 until a new contract is negotiated; is that
23 correct?

24 MS. KATZ: Yes. Well, you know,
25 contracts have all differing varieties of life.

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1 Some are three years, four years; some are five
2 years. You know, it does depend on what the
3 language in the contract says as far as benefits
4 are concerned. So, where contracts are not open
5 for negotiation, the language cannot be changed
6 unless there's a mutual agreement between the
7 employer and the employee.

8 MR. HYLAND: But in terms of the
9 contracts with the State, for example, the State
10 would have to interpret the contract in light of
11 the Civil Union Review Statute and the Lewis
12 decision --

13 MS. KATZ: That's correct.

14 MR. HYLAND: -- and I would think

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15 private employers also. So can they really
16 claim, as I think some of them had, that they can
17 not provide benefits to a civil union spouse
18 because it's not in the contract and get away
19 with that?

20 MS. KATZ: Well, it depends on
21 what the language in the contract says. I mean,
22 if it simply says "spouse," I would argue that
23 they can at least try to make that argument, that
24 that's not how they interpret the word "spouse."
25 I have not had that particular experience, but

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1 we're pretty bossy in our agreements. And we've
2 also for a while now attempted to include
3 language in our contract that would accommodate
4 all of our members, including those in gay and
5 lesbian relationships.

6 MR. HYLAND: Thank you.

7 MS. KATZ: The State contract is
8 not as much of an issue, I don't believe, as some
9 of the local government contracts and private
10 sector contracts, at least that we hold.

11 MR. HYLAND: Thank you.

12 MR. GOLDSTEIN: Thank you, Carla,
13 so much. Any other questions for Carla? Carla,
14 nobody has any other questions; that was quick.

15 MS. KATZ: That was quick; it's
16 amazing.

17 MR. GOLDSTEIN: Carla, thank you
18 for your extraordinary leadership on LGBT issues.
19 We really appreciate it.

20 MS. KATZ: Oh, thank you; take
21 care.

22 MR. GOLDSTEIN: Is anybody else on
23 the line? No. Also who just walked in was Ro
24 Cipparulo, who is really one of not just the
25 State's but the nation's leading labor attorneys

0078

1 with Weissman & Mintz.

2 Mauro, why don't we hear from you.
3 Feel free to have a seat at the table --

4 MR. HYLAND: Up here in the hot
5 seat.

6 MR. GOLDSTEIN: We're really
7 friendly. Mauro, thank you for joining us from
8 the Bergen County Labor Council.

9 MR. CAMPOREALE: I want to thank
10 everyone on the Commission for having me. My
11 name is Mauro Camporeale. I'm the director of
12 the Bergen County Central Trades and Labor
13 Council. We're the local county affiliate of the
14 American Federation of Labor and the Congress of

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15 Industrial Organization. We represent the
16 collective interests of 50,000 union members in
17 Bergen County and 53 local affiliated unions from
18 the county.

19 A little bit about myself and as
20 to why this issue is not only important to me but
21 also the labor movement. I got into working with
22 the labor movement because I wanted to realize
23 social, economic and political justice in our
24 communities and in our country and the world.
25 The labor movement was a good fit for me because

0079

1 they fight for the rights of all workers
2 regardless of who they are and what they do.

3 The labor movement has taken a
4 very strong position on marriage equality and the
5 LGBTQ issues as a whole. They've worked to
6 create a constituency group called "Pride At
7 Work," which is specifically to get union members
8 who are lesbian, gay, transsexual, transgender,
9 bisexual involved in their unions and involved in
10 the labor movement. The AFL-CIO has endorsed
11 ENDO, which is End Discrimination Against People
12 Based on Their Sexual Orientation. So the
13 American Labor Movement has been at the forefront
14 of this fight, and not only this fight but all
15 sorts of social justice issues from the 40-hour
16 workweek over 100 years ago to in New Jersey a
17 couple months ago paid family leave for workers.

18 So why is this a labor issue?
19 Well, we see that with the passage of the civil
20 union law in February of last year, we really
21 haven't realized equality for LGBT couples in New
22 Jersey. Without the legal term "marriage," and
23 we've heard this again -- and I don't want to
24 paraphrase what Carla said -- but without the
25 term "marriage," employers try to find ways to

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1 exempt same-sex couples from getting the full and
2 equal benefits that they deserve. If a couple is
3 civil unionized, they're going to say, "You're
4 not married; you're civil unionized." It's
5 happened in New Jersey. It's going to continue
6 to happen in New Jersey.

7 Fortunately for workers who do
8 have unions, there are people who are there to
9 help them out and go to bat for them and fight
10 for them, but for those workers who don't have
11 unions, it's a lot more difficult. They have to
12 put a patchwork of legal documents together to
13 hope that they get the same rights. Will they?
14 Maybe, maybe not; it depends how persistent the

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15 employer is; it also depends on what documents
16 they have.

17 The labor movement again has been
18 fighting for equal protection for everyone
19 regardless of race, religion, creed. Sexual
20 orientation should be included in that, and it is
21 included in that in the AFL-CIO'S position. To
22 deny someone benefits because of their sexual
23 orientation is an injustice. And there's an old
24 labor phrase, "An injustice to one is an
25 injustice to all." That's really how our

0081
1 organization sees it as the Bergen County
2 affiliate of the AFL-CIO and the national AFL-CIO
3 as well.

4 So we're going to continue
5 fighting for equal rights. Like Carla Katz had
6 said, it is a civil rights issue. It's also a
7 workers' rights issue, and until discrimination
8 and legal protections for LGBTQI people are in
9 place in the workplace and full marriage equality
10 is realized, we're still going to realize this
11 injustice in our society. The labor movement has
12 been working to end these injustices for a long
13 time.

14 If there are any questions --

15 MR. GOLDSTEIN: Any questions?

16 MR. HYLAND: Are you finding that
17 men in private employers are trying to invoke
18 contract exceptions, particularly where there has
19 already been a negotiated contract? Are they
20 trying to use the fact that perhaps the contract
21 didn't include civil unions as an exception?

22 MR. CAMPOREALE: I don't actually
23 negotiate contracts, but from my experience in
24 working with the private work who does
25 specifically deal with these issues when they do

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1 come up, there are cases where employers will try
2 to exempt workers who are civil unionized from
3 the benefits, claiming that it's not marriage,
4 and they'll try to use the contract language as a
5 way to get around that.

6 MR. GOLDSTEIN: That's what
7 happened in UPS.

8 MR. CAMPOREALE: UPS, that's
9 exactly what I was thinking about specifically.

10 MR. GOLDSTEIN: And, ironically, a
11 case of a major competitor of UPS in the shipping
12 industry that's going to come public soon that is
13 the exact same as the UPS case.

14 MR. CAMPOREALE: Well,

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15 fortunately, with UPS, there is a union there,
16 and I think Pride At Work is working with the
17 union to try to help resolve that case.

18 Any other questions?

19 MR. GOLDSTEIN: Thank you, Mauro;
20 we appreciate it.

21 Carol Gay, who is an Executive
22 Officer with the New Jersey State Industrial
23 Union Council, who really does have the best last
24 name on the planet.

25 MS. GAY: Hello, everybody; good

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1 afternoon. Thank you for allowing me to come
2 today. As Steven said, I'm Carol Gay. I'm the
3 Executive Vice-President of the New Jersey
4 Industrial Union Council, and we represent
5 300,000 union members and their families here in
6 New Jersey. I've been a representative. I've
7 been working for or representing family issues
8 and been a union member for 35 years, first as an
9 officer in my local, CWA Local 1084, and then as
10 an international representative for the
11 Communication Workers of America. And now I
12 serve in the capacity of EVP of the New Jersey
13 Industrial Union Council.

14 I'm here today -- well, the IUC
15 is here today in solidarity with the LGBT
16 community, but also I'm here as an advocate for
17 marriage equality and to let you know that the
18 New Jersey Industrial Union Council endorses and
19 truly supports true marriage equality. We're
20 here calling for fair and equal treatment for
21 same-sex couples, and we think that will only
22 happen with marriage equality.

23 In our opinion, several unions
24 fall short of that goal. And, as we say in the
25 labor movement, "An injury to one is an injury to

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1 all." Under the civil union law, the injuries
2 are mounting as a result of its ongoing failure.
3 The civil union law is failing to work in one out
4 of three cases, it has been reported. Why?
5 Because one out of three employers is refusing to
6 recognize the civil union law or the civil union
7 as equal to marriage, and therefore it's not
8 granting equal benefits.

9 This failure is clearly unfair to
10 same-sex couples, affecting not only them but
11 their families, their children, of course,
12 especially. It has created a second-class status
13 in our opinion, a second-class relationship
14 status, which is therefore discriminatory.

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15 The effects of this discrimination
16 have already proven to have lasting negative
17 effects on children's self-esteem, and we really
18 don't want to see the children of these couples
19 hurt any further. We feel that if we truly
20 support family values, we will let all children's
21 parents marry. And we view this, the right to
22 marry, as a human right.

23 The labor movement, as Mauro said
24 and as others said, has always been in the
25 forefront of the struggle for human dignity and

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1 civil rights. To us, marriage discrimination is
2 the same as racial discrimination, gender
3 discrimination, discrimination against religious
4 beliefs or sexual preferences or orientation.
5 It's simply not right to treat one person
6 differently, and I know you all feel this way.
7 To treat one person differently or to treat one
8 couple differently, same-sex couples differently,
9 is simply unfair in our opinion. It's not only
10 unfair; it's immoral, not to mention how
11 demoralizing it is. It's quite demoralizing for
12 LGBT employees in the workplace working side by
13 side with straight employees and not receiving
14 the same benefits.

15 So we believe also that only
16 marriage equality, not civil unions, will
17 guarantee equality in the workplace and equality
18 in the collective bargaining agreements. That's
19 what it's going to take. As everybody here has
20 said, that word "marriage" somehow or other
21 carries more weight. It's just more legally
22 binding in the minds of a lot of employers and in
23 the minds of insurance companies too.

24 So, anyway, I'm just here to tell
25 you that I'm tremendously bothered not only as a

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1 labor leader but as a woman, as a human being, by
2 the second-class status of civil unions. History
3 has shown us that the separate-but-equal theory
4 doesn't work. Unequal treatment is unjust and
5 unacceptable to the labor movement as well as to
6 me personally, and we just don't think justice is
7 being served under the civil union law.

8 Here in New Jersey, we've come to
9 expect so much more, so much better. New Jersey
10 actually just seems to be sort of a class above a
11 lot of states in the union in terms of our
12 treatment of people. And since we have come to
13 expect so much better, we just think it's time
14 for true marriage equality.

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15 So I'm here, the IUC is here, to
16 ask you to support true marriage equality as we
17 do. We think it's good for workers and their
18 families. It's good for the workplaces. It
19 certainly would create a much more favorable
20 atmosphere in the workplaces, and that's a
21 winning combination.

22 So I thank you.

23 MR. GOLDSTEIN: Thank you, Carol;
24 we appreciate it.

25 MS. O'LEARY: I have a question

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1 about the one-third of the cases that you cited
2 at the beginning of your testimony: Is that of
3 your members, a third of your members have been
4 denied, or a third of your members' employers
5 have refused to recognize civil unions?

6 MR. GOLDSTEIN: I can answer,
7 because I know where she is on her position.
8 She's going by press reports based on the number
9 of complaints that advocacy organizations have
10 gotten compared to the ratio of how many couples
11 have gotten civil unions.

12 MS. O'LEARY: Okay.

13 MS. GAY: Right. It's not just
14 from my members. It's statewide.

15 MS. O'LEARY: Okay; thank you.

16 MR. ORTMAN: Carol, thank you.

17 The question that is going through my mind is,
18 we're hearing from union leadership here, and I
19 appreciate that union leadership is in this
20 position. I'm curious if you feel that you're
21 adequately representing the rank and file members
22 of your union's feelings as well, and how do you
23 know those feelings so that we can know how that
24 information --

25 MS. GAY: Well, I would say

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1 absolutely, because, again, in New Jersey, we
2 just have a history of being like just a step
3 above in my opinion. And, I mean, workers want
4 everybody to be treated fairly. I mean, that's
5 my experience from the workplace and from
6 negotiating contracts. People don't like to see
7 other people not treated the same, and we want a
8 standard in our workplaces that everybody is
9 comfortable with where everybody is treated
10 fairly. The worst thing in the world is to be
11 sitting next to somebody and thinking that I'm
12 not being treated as well as she is. It creates
13 a lot of resentment, a lot of problems in the
14 workplace.

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15 MR. ORTMAN: I guess my question
16 is, we often hear numbers recorded in the press
17 about the number of New Jerseyans who are
18 actually in support of equal marriage, and I'm
19 just wondering if there has been a mechanism of
20 expression for the rank and file members so that
21 we might have a sense of numbers of people who
22 would be supporting marriage rights.

23 MS. GAY: Numbers, I mean, all I
24 can tell you is we're an umbrella organization, a
25 federation; so we represent many different

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1 unions. I mean, I personally came out of CWA,
2 but I mean, we represent just about every union
3 there is here in New Jersey. So it's all across
4 the board, and it's public sector, private
5 sector. I couldn't give you exact numbers other
6 than to tell you how many families or workers
7 that we represent.

8 MR. ORTMAN: Thank you.

9 MR. GOLDSTEIN: Any other
10 questions for Carol? Thank you, Carol. We
11 appreciate it so much.

12 MS. GAY: Thank you.

13 MR. GOLDSTEIN: And, finally, Ro
14 Cipparulo, who is a labor attorney with Weissman
15 & Mintz. Thank you for coming too, Ro.

16 MS. CIPPARULO: My pleasure.
17 Here's my card. I learned about this gathering
18 just a couple days ago; so I prepared a statement
19 that I'm going to read for the most part, and
20 then I would be happy to answer any questions,
21 particularly the questions that you were just
22 asking that I think I might address here.

23 My name is Rosemarie Cipparulo,
24 and I'm an attorney practicing with the law firm
25 of Weissman & Mintz in Somerset, New Jersey.

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1 Weissman & Mintz practices in the areas of labor
2 and employment law on behalf of union workers.
3 We also represent several not-for-profit
4 organizations, including New Jersey Citizen
5 Action. Our firm's largest client is, not
6 surprisingly, the Communications Workers of
7 America, AFL-CIO.

8 CWA represents about 60,000
9 workers in both the public and private sectors in
10 the State of New Jersey, and I also teach
11 collective bargaining at the School of Management
12 and Labor Relations at Rutgers University.

13 The labor movement, as it has been
14 said here from everybody, throughout its history,

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has always had civil rights at the forefront of its agenda. And while I cannot speak for the entire labor movement, I can certainly speak for my clients and say that they view marriage equality as a basic civil rights matter.

I'm here to explain why only marriage equality and not civil unions will guarantee equality in collective bargaining agreements. And just as an aside, I would like to note that at least my clients, particularly CWA, views itself as not only advocating for the

rights of workers but for the rights of families as well. And that is what makes this such a broader issue.

Now, a fairly large part of my particular labor law practice is in the negotiation of collective bargaining agreements. In collective bargaining, as with any negotiation, the party with the most bargaining leverage usually comes out on top. I define "bargaining leverage" as the ability of one party to achieve its goals in the face of opposition. In the collective bargaining context, bargaining leverage combined with strike leverage, which I guess I should define also as the willingness of workers or their ability to go on and indeed to sustain a strike -- which, by the way, is an economic weapon not available to those in the public sector -- usually is the key to improving terms and conditions of employment.

So you have this combination of bargaining leverage and strike leverage. That's what gives unions the ability to improve terms and conditions of employment, and indeed improving terms and conditions of employment for all of those represented by unions is the goal of

all collective bargaining. And it's from that perspective that I'm making my remarks here today, and it's from that perspective that my remarks are made here today about why we must have full marriage equality in the current political and economic climate.

It's no secret that unions are at a disadvantage to improve the terms of work for their members. The sluggish economy, the high unemployment rate combine to reduce any union's bargaining and strike leverage. The escalating cost of health insurance puts additional economic pressures on employers and workers, because we live in a society where health insurance and

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15 pensions are connected to employment as opposed
16 to an overall Social Security system like we see
17 in other countries.

18 If you look at the vast majority
19 of strikes that have occurred over the past
20 decade, particularly the recent auto workers
21 strikes, you'll see that the reasons for those
22 strikes are the increased costs of health
23 insurance and underfunded pensions. Simply
24 maintaining health and pension benefits in
25 collective bargaining at this time is the labor

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1 movement's number one task, and it's difficult
2 just to maintain the status quo. Indeed what
3 little leverage we have is expended on the
4 maintenance of existing benefits.

5 Because a legislative compromise
6 resulted in civil unions rather than marriage for
7 same-sex couples, unions are now put in the
8 position of having to negotiate the extension to
9 an additional class of people in this most
10 difficult of times, and it's not easy. Given the
11 escalating costs, employers are simply not
12 willing to add anyone and most often are trying
13 to scale back the provision of health and pension
14 benefits.

15 Adding civil union partners is
16 virtually impossible to do at this time in this
17 climate at the bargaining table. However, we
18 already have benefits for married couples in our
19 agreements. The key here, as is often in
20 contracts, as you all know, is the language.
21 Simply calling the joining of two people
22 "marriage" rather than "civil unions" means we
23 don't have to negotiate or rewrite the contract
24 language; it's already there.

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In keeping with the labor

1 movement's support of civil rights, many
2 collective bargaining agreements have non-
3 discrimination language, which includes sexual
4 preference. Indeed many CWA contracts have
5 included this language since 1983. However,
6 oftentimes the benefit providers do not accept
7 those joined in civil unions as married and
8 refuse to extend those benefits despite the non-
9 discrimination language in the agreements.

10 These benefit providers and
11 employers often hide behind the federal
12 Employment Retirement and Security Act, as we all
13 know as "ERISA," which governs the provision of
14 health insurance and pensions. They rely on that

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15 to deny benefits to same-sex partners. Such is
16 the case with DHL, which Steven sort of alluded
17 to earlier. And I've also noticed -- I've read
18 through some of the transcripts that the case of
19 DHL has come up here before this Commission.

20 There, the contract between DHL
21 and the Teamsters has the non-discrimination
22 language. It's very specific language. It says,
23 "The union and the employer agree that it will
24 not discriminate against any employee on the
25 basis of race, sex, religion, color, national

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1 origin, sexual preference in the provision of
2 benefits and terms and working conditions of
3 employment." You can't get much more specific
4 than that.

5 The contract also provides for
6 health insurance and pension benefits for married
7 couples. The problem there is that the insurance
8 provider does not recognize the civil union to be
9 the equivalent of marriage. The result is a
10 refusal to extend the benefits. I'm currently in
11 the process of trying to work through this with
12 the Teamsters' attorney, and we will see what
13 happens.

14 Just to be more accurate, I want
15 to comment on ERISA. It's not ERISA; ERISA
16 doesn't define marriage, and ERISA doesn't define
17 spouse. That's the Defensive Marriage Act.
18 ERISA doesn't get that specific. It defines
19 benefit pension plans. It doesn't go into this.
20 So we can blame this on DOMA. Moreover, as you
21 know, the give and take of negotiation
22 necessarily means that one proposal is exchanged
23 for another. We will give you this if you give
24 us that.

25 For unions, another difficulty in

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1 negotiating benefits for members joined in civil
2 union is that any leverage we have gets used to
3 fend off the reduction of benefits and to
4 maintain the current level of benefits. We
5 simply don't have the leverage it takes to get an
6 employer to agree to add civil union partners to
7 their benefit plans at this time in this climate.

8 And the problem is that society's
9 failure here to treat people equally and to
10 provide healthcare and a dignified retirement
11 ends up being a divisive issue within the
12 union's membership. Members who are joined in
13 civil union rightfully want to know why their
14 partners are excluded from the benefits that

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15 married members get for their spouses,
16 particularly when civil union is supposed to be
17 the equivalent of marriage. The answer to that
18 question, I'm afraid, cannot be found at the
19 bargaining table at this time.

20 Moreover, it's demoralizing and
21 divisive for workers in the same job title, doing
22 the same work, to be subject to different
23 benefits. One of the benefits of having a union
24 in the workplace is that it equalizes the
25 salaries and benefits for all workers covered by

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1 collective bargaining agreements. However, in
2 this situation, unions cannot correct
3 government's failure at the bargaining table.

4 The fact is that just changing the
5 language "civil union" to "marriage" changes the
6 situation, because everyone agrees that married
7 people and their spouses are entitled to health
8 insurance and pensions. It's already in our
9 agreements. We wouldn't have to expend any
10 leverage on society's failure. The only way to
11 address the problem in collective bargaining, in
12 my opinion, is through full marriage equality.

13 If you have any questions, I would
14 be happy to answer them.

15 MR. ORTMAN: I'm just wondering
16 what mechanisms, if any, rank and file members
17 have had to address this.

18 MS. CIPPARULO: Well, I'll tell
19 you generally how we get our information for
20 collective bargaining is that we send out what's
21 called a bargaining survey -- and Carol knows
22 this very well -- and practically every issue
23 that is covered by a collective bargaining
24 agreement is on the survey. And workers rate on
25 a scale of one to five whether they're happy with

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1 their health insurance, whether they're happy
2 with their salary, what needs to be changed.
3 This is a new issue, and I've just looked at some
4 bargaining surveys today, and it has not been
5 addressed in our bargaining surveys. But I'm
6 going to make it my personal mission to make sure
7 that it does get on our bargaining surveys.

8 What we do see, of course, is that
9 nobody is happy with their health insurance
10 coverage. It's almost across the board. Are you
11 happy with your health insurance? Are you happy
12 with your pension benefits? And the answers are
13 no. So this is something that the labor movement
14 has to do, I think, to get a feel from the rank

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15 and file members outside of just our regular
16 membership meeting where people voice their
17 opinion.

18 The DHL matter that I mentioned,
19 the one worker has been an employee of DHL --
20 previous to that, it was called "Airborne
21 Express" -- has been a Teamsters member for 18
22 years, and, according to her, she's the only
23 person who has ever tried to get the benefits, to
24 obtain the benefits for her same-sex partner in a
25 civil union. I had a very actually encouraging

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1 discussion with the Teamsters lawyer in New York
2 City last week that I'll be surprised if
3 something doesn't change that.

4 MR. GOLDSTEIN: We hope so,
5 obviously.

6 MS. CIPPARULO: Well, he knows
7 that we're prepared to go forward.

8 MR. GOLDSTEIN: The question is,
9 why should you have that struggle.

10 MS. CIPPARULO: The question is,
11 why do I have to have that struggle. And,
12 frankly, what he said to me is that this is a
13 really good time to further the discussion on
14 this matter by me raising -- what I did was I
15 had the worker file a grievance, and then when it
16 was denied, I filed an appeal letter and
17 contacted their attorneys; so I did that further.

18 Again, it's a collective
19 bargaining issue, not so much a larger political
20 issue, but it is included in the four corners of
21 the agreement: We will not discriminate against
22 folks based on sexual preference, except for when
23 it comes to --

24 MR. ORTMAN: Do they use that
25 language and not "orientation" language?

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1 MS. CIPPARULO: They say "sexual
2 preference" in this particular contract.

3 MR. GOLDSTEIN: It must be an old
4 contract.

5 MS. CIPPARULO: It's probably
6 language that has been carried over for several
7 contracts. Different contracts use "sexual
8 orientation." In the contracts I'm negotiating,
9 I make sure I include gender identity. So we're
10 making progress, but it's still a bit new for us
11 to get a handle on what the rank and file thinks.

12 MR. TAYLOR: This is a pretty rank
13 and file question. I've been sitting here trying
14 to shape it, and it's probably a labor question

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15 in that I'm concerned about hearing how something
16 as basic as civil unions plays a role in people
17 being able to obtain their kind of basic rights
18 as an employee, because if two men are civil
19 union, you've got to go through a whole kind of
20 exercise in order to go to the human resources
21 department in order to get new benefits.

22 If it were marriage, you could
23 just go and it's done. But there's almost this
24 other thing that shows up when you have to
25 determine, do we make it legal, because then it

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1 becomes business. Am I making my point -- I'm
2 concern how that plays out in the workplace,
3 because with these two separate -- very much
4 like it might show up in the military, very much
5 by having a separate status -- you've got to
6 determine whether or not you're willing to fight
7 for that separate status in your workplace, where
8 for everybody else, it's a given. Me and Betsy
9 got drunk and went to Vegas; now she gets my
10 benefits --

11 MS. CIPPARULO: Right; here she
12 is; here's your benefits --

13 MR. TAYLOR: -- and I don't have
14 to worry about whether or not I go to the human
15 resources department --

16 MS. CIPPARULO: Well, you've got
17 to show them a marriage certificate, and in these
18 cases particularly, I think the gentleman from
19 Bergen County touched on this with regard to
20 workers who do not have the benefit of a union, I
21 mean, they've got no one to stick up for them.
22 And the fact of the matter is, you go to some of
23 these human resources folks, and it's, "Civil
24 union, what's that? I don't know what that is.
25 What's that?"

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1 So, oftentimes, you'll find just
2 within human resources departments, the folks
3 don't really know what to do with a civil union
4 certificate. Luckily for unions, we ostensibly
5 have trained folks who know how to push these
6 issues, but for those left without unions,
7 they're on their own, and it's very, very
8 difficult and costly. And, like you said, it
9 becomes business.

10 I could fly to Las Vegas, marry
11 some guy I met on the strip, come home tomorrow,
12 and he'll be covered by my health insurance, and
13 there's not even a question asked. It's really
14 quite demoralizing.

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15 MR. HYLAND: My husband and I were
16 married in Canada last year, and if I were to
17 present my marriage license or my marriage
18 certificate, I should say, to an employer, if I
19 was a member of a union, would that be recognized
20 by them in New Jersey?

21 MS. CIPPARULO: Well, it depends,
22 as Carla Katz said, on the language of the
23 contract. But most of our contracts include
24 health insurance for married couples and spouses.
25 We usually have that term, "married." And so, if

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1 you were a CWA member, we would fight like hell,
2 and we would arbitrate. If you were denied by
3 the employer, we would arbitrate that. That's
4 the mechanism that we use to fight. And there's
5 no doubt in my mind that we would take that all
6 the way to arbitration --

7 MR. ORTMAN: An arbitration would
8 be necessary, you think?

9 MS. CIPPARULO: It depends on the
10 employer. I think that employers are less likely
11 to do that when a marriage certificate is
12 presented, because now you're really singling
13 people out within a defined group. You've got
14 marriage, and it's defined as this for some
15 people but defined as something else, and that
16 reeks of discrimination right off the bat. Not
17 to say that the term "civil union" and what
18 happens in New Jersey isn't, but within the
19 confines of that term "marriage," it's a whole
20 different ball of wax. I think it makes a huge
21 difference.

22 And particularly that we don't
23 have to change the language on our contracts to
24 accommodate it. It's difficult to negotiate any
25 increase in salary, wages, benefits; I don't have

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1 to tell you folks this. So I would feel
2 confident that the employers that CWA has
3 contracts with would honor that, and if they
4 didn't, we would certainly go all the way to
5 arbitration.

6 MR. GOLDSTEIN: When you have to
7 go to arbitration, when you have to fight for a
8 client who is not getting equal benefits because
9 of civil union, who bears that cost for your
10 fight in society?

11 MS. CIPPARULO: Well, under a
12 union contract, it's outlined in the contract.
13 Usually the employer and the union split the cost
14 of the arbitration, and it's borne separately and

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15 equally between the employer. But, again, for
16 folks who belong to unions, they get either a
17 very experienced union representative to do it,
18 or the union hires an attorney for them. If you
19 don't have that, you know, how much would it cost
20 to hire an attorney to raise this issue?

21 MR. GOLDSTEIN: Do dues go up
22 because of arbitration? I'm trying to, like,
23 play this out and see what is the eventual cost
24 to society. Is the person charged? I'm trying
25 to play this out; I mean, Rosemarie, you come

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1 from a topnotch law firm. You're a great lawyer;
2 somebody has to pay your bill.

3 MS. CIPPARULO: Right. Without
4 getting into the specifics of my firm's retainer,
5 I don't think that this alone is going to cause
6 an increase in dues. I don't think it's that
7 broad of a problem right now, but certainly the
8 more we have to do this, the money has to come
9 from somewhere. And if these matters don't get
10 resolved and we have to start fighting for this
11 stuff, certainly the money has to come from
12 somewhere, as you said, Steven. And at some
13 point, that comes out of the members' paychecks,
14 and it's going to result in dues increases. I
15 haven't seen it, to be very honest, at this
16 point, but going forward, you know, it could be
17 quite costly.

18 MR. HYLAND: Actually, this may be
19 more of a question for Linda; the Domestic
20 Partnership Act requires that all companies doing
21 business in New Jersey to then begin providing
22 domestic partner benefits when they renewed. So
23 is there just not an interpretation, or is there
24 an interpretation that we need of the insurance
25 regulations that say a company that does

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1 insurance business in New Jersey, a health
2 insurance provider, needs to assert that they are
3 providing those benefits equally to civil unions
4 and marriages? I mean, that was an explicit
5 provision in the Domestic Partnership Act.

6 MS. CIPPARULO: With all due
7 respect, I think you're slightly incorrect on
8 that. I think what the Domestic Partnership Act
9 said was that if an employer provided health
10 insurance to married couples and wanted to extend
11 that benefit to domestic partners, the insurance
12 company couldn't refuse to provide that
13 insurance.

14 MR. HYLAND: Well, it actually

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15 goes the other way. All insurance companies
16 providing health insurance in New Jersey had to
17 make available a domestic partnership plan.

18 MS. CIPPARULO: Yes; we're arguing
19 the same thing.

20 MR. HYLAND: And if an employer
21 wanted to pick it up, it was optional as to
22 whether a private employer had to pick it up or
23 not.

24 MS. CIPPARULO: That's right.

25 MR. HYLAND: But all insurance

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1 companies, when they went to renew their right to
2 do business in New Jersey, had to assert that
3 they had available to domestic partnerships
4 and --

5 MS. CIPPARULO: That's correct.

6 MR. HYLAND: So I'm thinking maybe
7 there's a need for an interpretation that under
8 the fact that there's a catchall provision in the
9 civil union bill and this is a regulation, that
10 maybe there's some part of the insurance
11 regulations that needs to be looked at and
12 applied equally to require that.

13 MS. CIPPARULO: I think that
14 provided they're not ERISA funds --

15 MR. HYLAND: Well, true; we know
16 there's the ERISA issue there.

17 MS. CIPPARULO: So they'll always
18 hide behind that. Luckily with CWA's contracts
19 -- you know, we represent more than 40,000 State
20 and municipal local employees, and the State
21 contract, as Carla said, is not that much of an
22 issue, and the civil union law extends those
23 benefits. But you saw what happened in Ocean
24 County with Laura Hestor. I mean, county by
25 county, we still have to go in and negotiate that

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1 language. Municipality by municipality, we still
2 have to go in and negotiate that language.

3 MR. HYLAND: But that's because
4 any changes are subject to existing collective
5 bargaining agreements or future collective
6 bargaining agreements.

7 MS. CIPPARULO: Correct; but those
8 are public sector employers, and they're not
9 subject to ERISA as well.

10 MR. HYLAND: I'm also wondering,
11 are you, as an attorney in this area and doing
12 these types of negotiations, looking at the
13 effect of DOMA on the taxation of benefits?
14 Because, in effect, even if a company comes along

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15 and says, you know, I'm going to cover
16 everybody's benefits 100 percent. For those
17 couples who are in civil unions, that's going to
18 be treated as imputed income under federal law,
19 and they're going to get a hit in both Social
20 Security that's withheld and other withholding
21 that's done for federal purposes, although not
22 done at the state level. Is that something you
23 can build into negotiations until we see DOMA go
24 away?

25 MS. CIPPARULO: I haven't looked

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1 into that issue yet, Stephen, but that's
2 something that I think we should start looking
3 into. So I just can't answer the question. You
4 know, I believe even if you're a State employee
5 and your civil union partner has benefits, you
6 still pay the federal income tax on that imputed
7 income; is that right?

8 MR. HYLAND: Yes. You're paying
9 on the amount that's paid, and they have to do
10 withholding for Social Security purposes, also
11 Medicare, Medicaid and federal income tax.

12 MS. CIPPARULO: It's a complicated
13 matter; isn't it, all the way around?

14 MR. HYLAND: Maybe the way to
15 address it in the contracts is to try to do it in
16 a general term as in if employees are subject to
17 any taxation on benefits, so that it doesn't
18 appear that it's focused specifically on same-sex
19 couples, even if they're married, might be one
20 way to address it, make it kind of a generic.

21 MS. CIPPARULO: Yes. I would like
22 to call you about that sometime.

23 MR. GOLDSTEIN: It's a match.

24 MR. ORTMAN: For all of our
25 witnesses that have testified this afternoon, it

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1 seems to me that it would be of some considerable
2 value for there to be a vehicle for the rank and
3 file members to speak to you about this, because
4 you're going to learn one of two things. One is
5 that you don't really represent what it is they
6 want, in which case you understand that you have
7 some serious education that needs to take place,
8 or you recognize that they do in fact feel the
9 same way that the leadership feels, and that, it
10 seems to me, is an incredibly powerful tool that
11 can be used in this entire conversation, and
12 that's just information I don't think you can
13 afford to be without.

14 MR. CAMPOREALE: Addressing those

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15 issues and those concerns you had, the national
16 AFL-CIO specifically created these constituency
17 groups at one of its conventions. So it was
18 voted on elected delegates from different unions
19 and in different regions of the country. So one
20 of the ways they are addressing it is private
21 work, and the national AFL-CIO is asking local
22 labor councils, local unions, state unions, state
23 federations to pass resolutions and put it to a
24 vote before the membership so that the discussion
25 will happen with the rank and file. It will

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1 happen at the union meetings, and we can do the
2 education that way. So it's part of the
3 strategy, and it's not just with LGBT issues but
4 with all sorts of issues.

5 MS. CIPPARULO: Yes, I'd like to
6 address that too. We do have a mechanism for
7 folks to talk to us. I mean, a union is a
8 democracy, and we have monthly meetings. We come
9 out for all the State employees to work sites and
10 we have meetings. Folks are free to call their
11 staff representatives. We have local
12 conventions. And I know for a fact that CWA has
13 also taken a vote of its membership at its
14 national convention in support of marriage
15 equality.

16 So the thing about a labor union
17 is that you have an open door to express your
18 opinions and to express your grievances to the
19 membership, at least with the unions that I
20 represent. I like to think that we're models of
21 democracy, frankly. So I think that we cover
22 that base. Our rank and file gets to express
23 themselves without any kind of retaliation or
24 limitation.

25 MR. GOLDSTEIN: I know several

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1 people have to leave at 4; so, Carol, why don't
2 we have you be the last question, and we'll all
3 just take a moment to return.

4 MS. GAY: Just to add to that, I
5 was going to say the same thing. People can
6 bring these issues up at membership meetings, but
7 we also have equity committees. All of our
8 locals are mandated to have equity committees,
9 and any kind of issues of unfairness or perceived
10 unfairness, whatever, can be brought up through
11 these equity committee meetings. These meetings
12 also bring it to the attention of anybody higher
13 up that needs to deal with it. So there are
14 avenues. And, actually, I know just through the

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15 IUC specifically, we had Garden State Equality
16 come to our convention last year and make a
17 presentation, and they were very well received.
18 Again, when it comes to issues of fairness, our
19 members are there. That's been my experience.

20 MS. ALLEN: I have a question. In
21 State employment, have you heard any complaints
22 from State employees around union resources
23 issues and going to sign up for benefits or
24 taking family medical leave or any of those kinds
25 of issues?

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1 MS. CIPPARULO: I have not. The
2 only grumbling I've heard was about having to pay
3 taxes on their benefits.

4 MS. ALLEN: That's understandable.
5 Okay, I just wanted to know if you had heard
6 anything.

7 MR. GOLDSTEIN: I just want to say
8 I think this was fabulously informative, and I
9 certainly know more about how collective
10 bargaining works, not just from personal
11 experience but from learning from all of you.
12 I'm sure I speak for everybody. So thank you
13 Mauro; thank you, Carol; thank you to Carla Katz
14 who was on the phone.

15 Is there a motion to adjourn?

16 MS. O'LEARY: So moved.

17 MR. KOMOSINSKI: Seconded.

18 MR. ORTMAN: Third.

19 MR. GOLDSTEIN: For the record,
20 Erin O'Leary made a motion. Joe Komosinski
21 seconded, and Charlie Ortman was third. Thank
22 you, everyone.

23 (The meeting concluded at 4:15
24 p.m.)
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1 CERTIFICATE

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3 I, DEBRA RICE, a Notary Public and
4 Shorthand Reporter, certify that the foregoing is
5 a true and accurate transcript of the proceedings
6 which were held at the time, place and on the
7 date hereinbefore set forth.

8 I further certify that I am
9 neither attorney nor counsel for, not related to
10 or employed by any of the parties to the action
11 in which these parties were taken; further, that
12 I am not a relative or employee of any attorney
13 or counsel employed in this case, nor am I
14 financially interested in this action.

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DEBRA A. RICE

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18 DATED: June 5, 2007

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